

CIVIL RULES AND ORDERS

FOR THE GUIDANCE OF THE
CIVIL COURTS AND OFFICERS SUBORDINATE
TO THE HIGH COURT OF JUDICATURE
AT FORT WILLIAM IN BENGAL

VOLUME I

ISSUED BY THE
AUTHORITY OF THE HIGH COURT (APPELLATE SIDE)

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PREFACE.

The importance of recent legislative changes, the numbers of amendments in rules and procedure and above all the publication of the report of the Civil Justice Committee since the last edition of this work appeared in 1918, had long served to emphasise the need for a thorough revision of both volumes of the Court's Civil Rules and Orders. It was not however till the middle of 1932 that the services of a member of the Bengal Civil Service (Judicial) were placed at the disposal of the High Court, to work as a Special Officer under the Registrar of the Appellate Side for the purpose of this revision.

In June of that year Mr. S. C. Sarkar, then a Munsif with long experience of administering civil justice in the mofussil of Bengal, embarked on what turned out to be a task of far greater magnitude than could have been anticipated before it was attempted. Each of the existing rules of the Calcutta High Court, together with those of all the other High Courts and the recommendations of the Civil Justice Committee had to be examined in detail and the whole had to be brought into line with the Codes and Laws which it is the business of High Court rules to amplify and explain. The result has been a book which bears little resemblance in form or contents to its predecessor. The comprehensive and radical character of the revision work of nearly three years will be found largely in the introduction in Volume I of numerous rules tending to improve the administration and the rescission of obsolete ones, and in the addition, modification, simplification and deletion of certain forms in Volume II, undertaken with the same end in view.

Many of the defects which have been brought to light by inspection reports of recent years are sought to be removed by the changes which many of the rules have undergone. At the same time it was felt that there were certain aspects in the administration of civil justice which demanded something more expansive and less formal than what can be easily cast in the form of a rule. The result has been the almost simultaneous publication of a short manual called "The Civil Suit Instructions Manual," the contents of which should be read and applied side by side with the present Volume which has been given the shorter title of "Rules and Orders (Civil)". In both publications the experiment has been tried of continuous numbering in one consecutive serial from beginning to end,

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5 (New)	.	. <i>cf.</i> second sentence of r. 9, Ch. I.
6 (New).		
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16 Ch. I, r. 10 modified redrafted.
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20 (2) to (5) (New).		
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176 r. 83(a) (b), Ch. I redrafted.
177	(New).		
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„ (2) (New)
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„	Note (New)		
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184	(New)		
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415	..	.	r. 10, Ch. VIII modified.	
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„	Note 1	(New).	
„	Note 2	(New).	
„	Note 3	(New).	
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487	..	.	r. 30, Ch. III.
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496	(New).		
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„	Note 3	(New).	
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523	(New)	.	cf. r 77, Ch III.
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565	.	..	<i>cf.</i> foot-note 2, p. 181, Ch. IV.
566 r 110, Ch. III redrafted.
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568	(New	..	. <i>cf.</i> r. 111, Ch. III.
569	(New).		
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594	(New).		
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596	(New).		
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598	(New)		
599		..	. r 21, Ch IV redrafted.
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672	(New)			
673	(New)			
674	(New).			
675	(New)	.	.	cf. r 45, Ch IV.
676	(New)			
677	.	.	.	r. 7, Ch XII
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„	Note 3 (New)			
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678	..			r 8, Ch XII
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„	• Notes 1, 2	.		Modified
„	Note 3 (New).			
681	(New).			
682	.	.		r 2, Ch. V modified and redrafted.
683	(New)			
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688		r. 10, Ch V revised.
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„	Note 2 (New).			
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„	Note 1. (New).			
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908	.. Note to r. 58, Ch. X.
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914	. cf. r. 60, Ch. X (Enlarged and rewritten).
915 (New)	.. cf. r. 61, Ch. X (Enlarged and rewritten).
916 (New)	.. cf. r. 61, Ch. X.
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1002	(New)	
1003		r. 14-A, Ch. XII.
1004	(New).	
1005	(New)	
1006	(New).	
1007	(New).	
1008		r. 15, Ch. XII modified.
1009	(New).	
1010	(New)	
1011	(New).	
1012		.. r. 16, Ch. XII.
1013	(New).	
1014		r. 1, Ch. XIII modified.
1015	(New).	
1016		r. 2, Ch. XIII.
1017	(New)	.. cf. r. 4, Ch. XIII.
1018	(New).	
1019	(New).	
1020	(New).	
1021	(New).	
1022	(New).	
1023	(New).	
1024		. r. 6, Ch. XIII.
1025		r. 7, Ch. XIII.
1026	(New).	
1027	(New).	
1028	(New).	
1029	(New).	
1030	(New).	
1031	(New).	
1032	(New).	

Rules of the 1935 Edition.	Rules of the 1918 Edition.
1077	.. r. 38, Ch. XIV modified.
1078	.. r 39, Ch. XIV.
1079 (New).	
1080 (New).	
1081 (New).	
1082	. r 7, Ch XIV
1083 (New)	. <i>cf</i> r 8, Ch XIV
1084(1) (2)	r 14, Ch XIV modified.
.. (3)	. r 15, Ch XIV
.. (4) (New).	
1085 (New)	
1086 (New)	(<i>cf</i> r 16, Ch XIV)
1087 (New).	
1088 (New).	
1089	. r 24, Ch XIV redrafted.
1090	. r 24, Ch XIV
1091	. r 26-A, Ch XIV.
1092	. rr. 25 and 26 Ch. XIV.
1093	.. r 27, Ch XIV modified.
1094	.. r 28, Ch XIV.
1095(1) (New).	
.. (2)	.. r 29, Ch XIV.
1096(1) (2)	. r. 34, Ch XIV modified.
.. (3)	. r. 29-A, Ch. XIV.
1097 (New).	
1098	r 8, Ch XIII modified.
1099 (New).	
1100	.. rr 9, 11, Ch. XIII modified.
1101 (New).	
1102 (New).	
1103	.. r. 10, Ch. XIII modified.
1104 (New).	
1105 (New).	
1106 (New)	.. <i>cf</i> r 12, Ch. XIII
1107 (New).	
1108	. r. 14, Ch XIV.
1109 (New)	
1110	. r. 15, Ch XIII
1111 (New)	
1112	.. r. 13, Ch XIII modified.
Appendix I.—Form of Inspection (New)	<i>cf</i> the points in r. 12, Ch. XIV.
Appendix II.—Form of Inspection of the district record room. (New).	

CIVIL RULES AND ORDERS OF THE HIGH COURT, CALCUTTA.

Volume I.

PART I.—Rules Relating to the Civil Procedure Code.

CHAPTER 1.

COURT-HOURS, CAUSE LISTS, PLEADINGS, PETITIONS, ETC.

1. General.

1. (1) The ordinary hours of sitting for all Courts shall be 11 a.m. to 5 p.m. (local time).

(2) There shall ordinarily be an interval (not exceeding half an hour) at about 2 p.m. or 8-30 a.m. in the case of morning sitting.

(3) Courts may close at 2 p.m. on Saturdays, if the state of the work permits.

(4) The sittings of all Courts shall be suspended from 12-30 p.m. to 2 p.m. on every Friday to enable Muhammadan employees, pleaders and their clerks, witnesses and litigants to say their *Jumma* prayers; but work in the offices attached should not be suspended during this period, provided that Muhammadan employees of Government should, if they so desire, be permitted to absent themselves during the time the sittings of the Courts are suspended and that other Muhammadans having business in the offices should not be required to attend during that time.

(5) In hot weather, *i.e.*, between the 15th March and the 30th June (the exact dates being settled in consultation with the heads of other offices in the station and intimated to the High Court), the Courts in the districts of Bankura, Birbhum, Burdwan and Midnapore may commence their sittings at 6 a.m. or as soon thereafter as convenient. In other districts also where it may be convenient to work in the early hours of the day, similar hours may be permitted with the special sanction of the High Court. It is expected that judicial officers will sit for at least five hours each day when Courts are held in the morning.

Note.—In places where morning sittings are being held in April, the ordinary hours of sitting [*vide* sub-rule (1) of this rule] shall be observed on the particular day in that month when *tamaddi* filings take place

2. The judicial work of the day shall be taken up punctually at the hour prescribed by the above rule, *i.e.*, at 11 a.m. or 6 a.m. as the case may be, and shall have precedence over all other work. In no

10. Plaints, memoranda of appeals and original petitions must be presented during the Court hours specified in rules 1 (1) and 1 (5).

Explanation—"Original petition" means a petition whereby any proceeding other than a suit or appeal or a proceeding in execution of a decree or order is instituted in a Court

Note.—The hours prescribed by rules 1(1) and 1(5) should be strictly observed with this exception that on the *tamadi* day in the month of April, the presiding Judge may for sufficient reason to be recorded in writing, keep the Court open till any hour up to 6-30 p m for presentation of plants, but in no circumstances beyond that hour.

11. Parties should, where practicable, file pleadings, applications, etc., and affidavits in English and preferably typewritten either in English or vernacular

12. A diary in the prescribed form No. (R) 12 to be called the "Diary of the Court of . . . at . . ." shall be maintained by each Civil Court in the following manner:—

(1) Each case fixed for any day shall be entered *in advance* immediately upon a date or adjourned date being fixed, each such entry showing the purpose for which it is set down on each date.

Note.—The purpose should be indicated by suitable headings written in red ink, e g , For—Filing deficit Court-fee, etc , Final disposal at first hearing, Ascertaining whether suit will be defended, Filing written statement, Settlement of issues Compliance with orders regarding discovery, admission, etc , Investigation of pauperism, Substitution of heirs, Compromise, Hearing of interlocutory application (state nature), Commissioner's report, Filing award, Settling the final or peremptory date of hearing Peremptory hearing Argument, Judgment, Orders, etc etc

When fresh summonses have to be issued for non-service, death of party or other reasons, such cases are to be entered under the heading "For issue of process" or "For appearance of defendant" as the case may be

(2) The topmost heading should be "For peremptory hearing" and under each heading should be grouped separately each class of cases in their chronological order according to the dates of their institution.

Note.—In determining the age of a case, no account should be taken of the date of its restoration or receipt on remand or by transfer

(3) Appeals and Miscellaneous cases should also be shown in the Diary in the above manner Execution cases should be noted last of all, also arranged according to their class and in chronological order.

(4) The Diary will be so arranged as to mark a clear division between defended and undefended cases Cases on the undefended list should also be shown under suitable headings as above grouped separately class by class and arranged in their chronological order

Note 1.—When a defendant fails to appear on the first date fixed and service of summons is proved, the case, if not disposed of for any reason on that day, will go to the undefended list of the adjourned date in the Diary

Note 2.—In this connection see paragraph 7, Civil Suit Instructions Manual, 1935

(5) Progress made in each case shall be shown briefly under each date, as also the reason for adjournment and at whose instance

(6) The number of witnesses examined in each case shall appear in the appropriate column

(7) A running total in red ink shall be inserted from day to day with the object of showing the total number of witnesses examined during each quarter of the year, a new serial number for them being started at the beginning of each quarter

of, (b) dates or adjourned dates fixed during the day of cases not disposed of, and (c) any order requiring specific action.

Note 1.—Lists shall be prepared in English and shall remain posted for three days after which they shall be filed in office. At the end of each quarter, the lists of the previous quarter shall be destroyed.

Note 2.—Cause Lists should be stuck up on a wooden board protected by glass or wire-netting and under lock and key so that they may not be removed or altered.

Note 3.—The list shall bear the signature of the presiding Judge whose duty it is to see (1) that the list is posted, with column 1 filled in, not later than the hour fixed in the rule on the day preceding that to which the list relates, and (2) that proper entries are made in columns 2 and 3 of the list at least half an hour before he leaves Court on the day to which the list relates.

Note 4.—Owing to the difficulties known to be experienced in maintaining the lists as laid down above the High Court favour the maintenance of a register in the same form in which the necessary entries shall be made from day to day and signed by the presiding Judges as indicated above. The register shall be laid at some conspicuous place in the court-room every day at the specified hours for inspection by parties and pleaders.

15. A Register in the prescribed Form No. (R) 37 shall be maintained in every Court showing the processes, process-fees and other costs due from the parties and the latest date of filing. It shall be daily written up by the clerks concerned and signed by the presiding Judge below the last entry for each day and laid at some conspicuous place in the court room between the hours of 1 and 5 p.m. (or 8 and 11 a.m. in the case of morning sittings) for inspection by parties or their pleaders.

16. For sealing judgments, writs, decrees, processes, sale certificates, certificates of non-satisfaction of decrees and copies, etc., the regular seal of the Court shall be used, by all judicial officers. In any other connection, smaller seals as supplied should be used.

Note 1.—The utmost care is to be exercised over the custody of the above and of all other seals in the possession of a Court, including the date seal.

Note 2.—A name seal, if in use, shall remain in the personal custody of the presiding Judge whose name it bears, and shall either be used with his own hand or by someone in his immediate presence under his direction.

17. Except where otherwise provided by the Code, or these rules, or any law for the time being in force, any notice directed to be given to any party shall be in writing, and may be served by the party, or his pleader, on the other party, or his pleader personally, or by sending the same by post, in a registered pre-paid cover, to the address for service of the party or his pleader. (*See also Or. 3, r. 5*)

18. No document or proceeding required to be presented to or filed in Court which is sent by post or telegraph shall be received or filed in Court. If a cover is found to contain such a document it should be returned with a note of the reason for returning it. The Court has however a discretion to accept, if sent by post, a document not required to be presented to or filed in Court.

19. With the permission of the presiding Judge any advocate or pleader may address the Court in English, when any one of the advocates or pleaders on the opposite side is acquainted with that language, or whenever the senior of such advocates or pleaders or his client consents to this being done.

24. (1) In every pleading, petition, etc., names of parties should bear consecutive numbers and a *separate line* should be allotted to the name and description of each person

(2) These numbers should not be changed, and in the event of death of a party during pendency of the suit or proceeding, his heirs or representatives, if more than one, should be shown by sub-numbers. Where fresh parties are brought in, they are to be numbered consecutively to the plaintiffs or defendants, as the case may be, already in the suit. Where any party whose name is entered in the register of suits dies or fresh parties are added, the necessary correction should be made in the Register forthwith

25. The Court should satisfy itself as to the identity of every person presenting a pleading, affidavit or petition, who is not a pleader or mukhtar.

26. (1) Every petition or pleading shall state concisely and clearly—

- (a) the facts, matters and circumstances upon which the applicant relies;
- (b) the matter of complaint, if any, and the specific relief sought or the prayer made;

but not arguments or any irrelevant matter.

Note.—Petitions containing argumentative matter (e.g., quotations and discussions of the effect of certain sections of Acts, or of certain rulings of the High Courts, etc., etc), or things which are irrelevant to the matter in hand should be returned to applicants without any order except an endorsement that the application is returned

(2) Applications in regard to distinct subject matters shall be made in separate petitions.

(3) A petition must not contain more than one prayer or one series of alternative prayers of the same kind.

(*Illustration*—Application may be made by one petition for warrant of arrest against a recusant witness or a proclamation for his appearance or a notice to show cause against fine for non-appearance, but not for local investigation, or a commission to examine a witness, or for amendment of plaint)

(4) An original petition shall in addition to the particulars required by law also state the Act and section or rule or other authority under which it is presented.

(5) Every interlocutory application or petition filed in a suit or proceeding valued at Rs 50 or less shall display clearly, preferably in red ink, the fact that it is so valued by a note to that effect in its top left hand margin, in order to enable a proper check to be made of the court-fee paid

27. At the end of every pleading, application, affidavit or other legal document presented to a civil court, there should be the signature or a signed endorsement, giving the name, of the pleader or other person who has drafted it

Note 1.—The rules under this section (Pleadings, Petitions and Affidavits) shall be read as being applicable (so far as may be), to memoranda of appeal, *vakalatnamas*, process-fee sheets, *haziras* and other similar papers

Note 2.—The acceptance of documents referred to in this section (Pleadings, Petitions and Affidavits) by the Court will depend on strict compliance with its several provisions

(3) If there be no cause in Court, the affidavit shall be entitled "In the matter of the petition of... .."

35. Every affidavit shall be drawn up in the first person and divided into paragraphs, numbered consecutively, and each paragraph, as nearly as may be, shall be confined to a distinct portion of the subject.

36. Every person, other than a plaintiff or defendant in a suit in which the application is made, making any affidavit, shall be described in such manner as shall serve to identify him clearly; and where necessary for this purpose, the affidavit shall contain his full name, age, father's name, profession or trade and true place of residence, and shall be subscribed either with his signature in his own hand or his finger-impression.

37. Unless it be otherwise provided, an affidavit may be made by any person having cognizance of the facts deposed to. Two or more persons may join in an affidavit, each shall depose separately to those facts which are within his knowledge, and such facts shall be stated in separate paragraphs.

38. When the declarant in any affidavit speaks to any fact within his own knowledge, he must do so directly and positively, using the words "I affirm" (or "make oath") "and say."

39. Every affidavit should clearly express how much is a statement of the declarant's knowledge and how much is a statement made on his information or belief and must also state the source or ground of the information or belief with sufficient particularity.

Note.—In affidavits under Or. 32, r. 3 (3), the officer before whom such affidavits are sworn should see that the words "and that he (she) is a fit person to be so appointed" are always inserted [G L No 13 of the 6th April, 1932].

40. (1) When a particular fact is not within the declarant's own knowledge, but is stated from information obtained from others, the declarant must use the expression "I am informed" and, if such be the case, should add "and verily believe it to be true;" and he must also state the source or ground of the information or belief, and the name and address of, and sufficiently describe for the purpose of identification, the person or persons from whom he received such information. When the statement rests on facts disclosed in documents or copies of documents, procured from any Court of Justice or other source, the declarant shall state what is the source from which they were procured and his information, or belief, as to the truth of the facts disclosed in such documents.

(2) Documents (other than those on the records of the case) referred to by affidavit shall be annexed to the affidavit and marked in the same manner as exhibits admitted by the Court and shall bear the certificate which shall be signed by the Commissioner before whom the affidavit is made

41. Except under the special orders of the Court, no document being an exhibit to an affidavit or verified petition or the materials for any application shall be given back unless the document be an original document, in which case it may be taken back on an order of the Court, a certified copy being retained

47. The following forms of affirmation and certificate shall be used by the Commissioner appointed to administer oaths or affirmation:—

(1) Affidavit on solemn affirmation.

(Cause title.)

I, A.B., son of C.D., and a Hindu of the..... caste, of.....years of age, (state occupation) residing at.....do solemnly and sincerely affirm (or make oath and say) as follows.—

- 1.
- 2.
- 3.

Solemnly affirmed [or sworn] at the office of [the Court of the Munsif of] this.....day of 19... at [state hour] before me <div style="text-align: right;">(Signed) <i>Sheristadar of the said Court.</i></div>	}	(Signed) A. B.
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(2) Certificate under rule 44 when declarant is unacquainted with the language of the affidavit, or is blind or illiterate.

Solemnly affirmed [or sworn] at the office of [the Court of the Munsif of.....] this.....day of 19... at [state hour] before me, the contents of this affidavit (or solemn affirmation) (and the exhibits therein referred to) having been first truly and audibly read over to the declarant in Bengali, he being illiterate or unacquainted with English (or being blind), who appeared perfectly to understand the same, and made his finger impression thereto(or signed the same) in my presence. The declarant is personally known to me or identified by (state name and address) who is known to me at (state hour).	}	(Signed) A. B.
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(Signed)

Sheristadar.

(3) Certificate under rule 40 to be endorsed on an exhibit to an affidavit.

(Short cause title).

This is the exhibit marked "A" referred to in the affidavit of A B sworn (or affirmed) before me this.....day of.. ... 19...

(Signed)

Sheristadar.

48. The attention of Courts is drawn to the provision of Or. 18, r. 4, that witnesses are to be examined in open Court. The power under Or. 19, r 1 to order any particular fact or facts to be proved by affidavit or the reading of an affidavit of any witness at the hearing, should be exercised only in special circumstances, or, as that rule declares, "for sufficient reason" which should always be specified in the order, there can be no general order for the admission of affidavits in suits or appeals.

CHAPTER 2.

PRESENTATION, REGISTRATION, ETC., AND EXAMINATION OF PLAINTS.

52. An order appointing an officer to receive complaints under Or. 4, r. 1 (1) must be in writing

Note.—This rule applies also to memoranda of appeal [Or. 41, r. 1 (1)].

53. Every complaint brought for presentation shall have affixed to the top left hand corner of its first page, a slip of paper in the following form, with the particulars required written on it excepting the filing number which should be left blank:—

Filing No.....
Class of suit.....
Plaintiff.....
Defendant.....
Value of suit.
Pleader

Note.—It should be particularly noted that additions made by the High Court to Schedule I of the C. P. Code require that every complaint shall be accompanied by the necessary number of its copies, draft forms of summons, and fees for the service thereof [Or 7, r 9 (1-A)], and a statement of the party's address for service (see rule 21 and Or. 6, r. 14-A)

54. (1) Immediately on receipt of a complaint, a serial (consecutive) number shall be marked on it, to indicate the sequence of filing, the same number being simultaneously noted on the attached slip of paper. The slip shall then be detached, stamped and made over to the person presenting the complaint, then and there. These numbers (called filing numbers) shall be quoted in all papers that may be filed hereafter in connection with the complaints so long as they are not registered.

Note.—All complaints shall be marked with the filing number on the same day, they are filed and the slips attached shall be delivered forthwith. If on account of unusually heavy filing on any *tamadi* day it is not possible to make over all the slips of paper within the closing hour prescribed in rule 10 and the note thereto, those that are left must be distributed on the next following working day and the presiding Judge should see that it is done in his presence.

58. When a plaint is filed, the sheristadar of the Court should endorse on it on the left margin in red ink the date of presentation, for this is the date of institution, and on that day may depend a question of limitation.

59. (1) On presentation or receipt of a plaint, the sheristadar of the Court shall examine it in order to find out whether all the requirements of law have been complied with. This examination should be particularly directed to ascertaining, among other things—

- (i) whether the plaint bears full court-fee stamps in accordance with the valuation put upon it;
- (ii) whether it has been properly signed and verified (Or 6, rr. 14 and 15);
- (iii) whether it complies with the requirements of Or 7, rr 1, 2, 3, 4, 6, 7 and 8;
- (iv) whether in the case of recovery of rent under the Bengal Tenancy Act, 1885, the provisions of sec. 148 (b) and (c) have been complied with;
- (v) whether it is accompanied by the necessary copies of plaint and process-fees and draft forms of summons [amended Or. 7, r. 9 (1-A)];
- (vi) whether the documents attached to the plaint (if any) are accompanied by a list in the prescribed form [Or. 7, r. 9 (I), see also r. 9 (4)];
- (vii) whether it is accompanied by the party's address as required by Or 6, r 14-A and contains the necessary particulars (*vide* rule 21),
- (viii) whether in the case of minor plaintiffs and defendants the requirements of Or 32, rr. 1 and 3 have been complied with and the necessary application supported by an affidavit verifying the fitness of the proposed guardian *ad litem* of the minor defendant(s) has been filed,
- (ix) whether the suit is within the pecuniary and territorial jurisdiction of the Court,
- (x) whether the *vakalatnama* has been properly accepted and endorsed by the pleader [*vide* rule 969, and in particular sub-rule (6) of the rule], and whether in the case of illiterate executants, the provisions of rules 968 and 969 (4) have been complied with

(2) The officer examining the plaint is required to certify on the top left hand margin of the first page of the plant the sufficiency or otherwise of the stamp borne and to note the amount of deficiency, if any. A second certificate is to be appended if and when the deficiency is collected

(3) The officer examining the plaint should refer to the presiding Judge if he thinks that it should be returned or rejected for any reason. It will then be for the Judge to deal with the matter

Note 1.—See also paragraphs 1, 2 and 3 of the Civil Suit Instructions Manual, 1935

Note 2.—As to appearance of defendant and filing of written statement, see paragraphs 9—11, Civil Suit Instructions Manual, 1935

CHAPTER 3.

SERVICE OF PROCESSES AND WORK IN THE NAZARAT.

1. Processes and their service.

A.—General.

61. In every process and order (of whatever description) issued by a judicial officer, for whatever purpose it may be issued or made, the name of the district and of the Court from which the same is issued, and also the name and powers of the officer issuing or making it, shall be clearly set out in such a manner that they may be easily read.

62. All processes, notices, copies of complaints, and other documents filed in Court (with the exception of exhibits) shall be written or typed on durable paper of foolscap size. If carbon copies are filed, they must be distinct and legible.

Note.—As to paper for pleadings, petitions, etc., *see* rule 20(1).

63. The hour of attendance to be entered in every summons or process issued by a Court shall be 5-30 a.m., or 10-30 a.m., as the case may be, unless the Court otherwise directs.

64. Processes should ordinarily issue in the language of the Court; but where processes are sent for service to a Court where the language is different, they should be accompanied by a translation into the language of such Court or into English, certified by the transmitting Court to be correct. Where the return of service or report stating the reason for non-service is in a language different from that of the issuing Court, it shall be accompanied by an English translation similarly certified.

Note.—*See* Note 4 to rule 122.

65. Processes issued to Europeans and Anglo-Indians should be in English.

66. Persons on whom processes are to be served or executed shall be described in as full a manner as possible so as to identify them clearly, *i.e.*, by a statement of name, father's name (if possible), occupation, address and such further particulars as will facilitate identification and service.

Note.—In the case of service or execution of processes in Presidency or other large towns, the name of the street, lane or section and the number of the house (if any) should be given

67. (1) With their applications for issue for processes, parties shall file process-fees wherever necessary under the law and the required number of printed forms filled up in a bold, clear and easily legible

70. The presiding Judge of any superior Court may for sufficient reason direct on the application of the party applying for any particular process, which should ordinarily be sent for service to an outlying Court, that it be served or executed by a special process-serving peon from headquarters.

71. (1) When any person has been arrested, or moveable property seized for production at the district headquarters by a process-serving peon of an outlying Court under a warrant issued by a superior Court, the process-serving peon shall forthwith bring such person or property to the Nazir of the Courts at district headquarters at the cost of the person executing the decree

(2) The Nazir shall immediately give the peon a receipt and send him back to his own Court, and shall produce such person or property before the Court which issued the process.

(3) When money shall have been paid upon any such process, it shall be received by the Munsif of the outlying Court and duly transmitted by money order at the expense of Government together with the process to the Court concerned

72. Copies of the sale proclamation under Or. 21, r. 67 and processes under Or. 5, r. 20 and copies of all processes required to be affixed at the Court-house of the issuing Court at sadar, should be served in the court-house of the issuing courts at district headquarters by the sadar peons.

73. On or before the 6th of each month, the Court issuing money orders under rule 71 (3) shall send to each Court to which money orders have been issued in the preceding month, a statement showing the number and particulars of the money order so issued, and it shall be the duty of the presiding Judge of the latter Court to see that the amounts involved have been received and accounted for.

74. A Civil Court seeking to serve a process in the Chittagong Hill Tracts shall send with the process a letter in English addressed to the Deputy Commissioner, explaining the nature of the suit. The fees for service as prescribed must at the same time be forwarded in cash

75. A summons issued under Or. 5, r. 21 shall ordinarily be sent to the Court of the Munsif within whose jurisdiction the person to be served resides, with a covering letter or an endorsement signed by the presiding Judge

C.—Method and Proof of Service.

76. Service should always be personal wherever practicable (Or. 5, r. 12) and the Courts ought not in *ex parte* cases to act upon anything short of personal service, until they are satisfied that personal service could not reasonably be effected

Note 1.—Personal service shall be deemed to include all cases in which the process is delivered or tendered to the person concerned or his agent empowered to accept on his behalf, whether accepted or refused, including service under Or. 5, r. 13 and 14, Or. 29, r. 2, and Or. 30, r. 3, and all cases under Or. 5, r. 15, of the C. P. Code in which the process is accepted by an *adult* male member of the family of the person to be served who is residing with him and a receipt granted

Note 2.—The signature required under Or. 5, r. 16, should in the case of illiterate persons be held to mean the thumb impression. Process-serving peons out on duty, should therefore be supplied with printer's ink, etc., for taking such impressions.

there within a reasonable time and there is no agent empowered to accept service on his behalf, nor any other person on whom service can be made, service shall be effected in the manner directed in Or. 5, r. 17. It should be proved according to the circumstances of the case by the declaration of the serving officer and, if necessary, by the affidavit or solemn declaration of some other person or persons (if any) acquainted with the facts that the person was absent from his residence at the time of attempted service and that there was no likelihood of his returning within a reasonable time and that there was no agent empowered to accept service, nor any other person on whom service could be made; and in any case that the house on the outer door or some other conspicuous part of which a copy of the process was affixed, was the ordinary residence or place of business of the person addressed at the time when it was so affixed. The Court may also proceed under Or 5, r. 19.

81. If the service is made under Or. 5, r. 15, it should be proved in like manner that the person was absent from his residence at the time of attempted service and there was no likelihood of his returning within a reasonable time, and that he had no agent empowered to accept the service, and that the person, to whom the process was delivered was an *adult* male member of his family, and was actually residing with him at the time of such service. It is to be noted that a servant is not a member of the family within the meaning of this rule.

82. If the service is made under Or 5, r. 14, it should be proved in like manner that the summons or notice could not be served on the defendant or respondent in person, and that he had no agent empowered to accept the service, and that the person to whom the process was delivered was an agent of the defendant or respondent in charge of the land or other immovable property forming the subject-matter of the suit.

83. If the return of service is under Or. 5, r. 20, it should be proved in like manner that the house, upon the door or other conspicuous part of which a copy of the process was affixed, was the house in which the defendant or respondent is known to have last resided, or carried on business or personally worked for gain, or that the service was made in all respects in conformity with the order for substituted service, which should accompany the process. It should also be proved in like manner how long, and until what time the defendant or respondent resided in the house, and what has become of him

Note.—In the case of service under Or 5, rr 14, 15, 17 or 20, it must also be proved that proper and reasonable efforts were made to find out the person to be served. For instance, the serving officer should go to the place or places and at the times at which it was reasonable to expect the person would be found, and mere temporary absence of the person does not justify the serving officer in affixing a copy of the summons on the door of the person's house. The process should again be taken to his house to be served upon him when the inquiries made show that he is likely to be at home and to be found there

84. If the person addressed has no place of residence and he cannot be found or if he is dead, these facts shall be stated in the report together with the names and addresses of at least two persons from whom the facts are ascertained. If the person addressed has ceased to live at the place, his present address, if available, and the source of information should be reported

85. If the service is made under Or 5, r 12, on an agent, it should be proved that such agent was empowered to accept service, under Or. 3,

(2) Process-serving peons must invariably note the date, hour and exact place of service of each individual process and also the sequence in which processes are served on different persons to be served in the same case and on the same occasion, in their reports and declarations.

(3) Every peon must immediately after completion of any duty connected with a process write clearly with his own hand at the place of service and in the presence of witnesses (if any), his report of service or failure of service.

(4) Every report of service or non-service shall comply strictly with the directions in these rules and in Form No (P) 1-A, Volume II, and the declaration in proof of service shall be recorded in legible writing in the manner laid down in Form No. 11, Appendix B, Schedule I, Civil Procedure Code, as amended by the High Court

N.B.—Instructions for the guidance of process-serving peons and returning officers—

(a) If the process-serving peon is personally acquainted with the person to be served, the fact should be stated. If he is not so acquainted, it should be stated how he satisfied himself about the identity of the person

(b) It should be seen that the name of the person who accepts service corresponds exactly with the name given in the process. Where the signature in token of acceptance differs from the name given in the process, the discrepancy should be explained

(c) Where the process is served on some person other than the person named therein, who accepts the process on his behalf, it should be stated whether such person is an *adult*, and whether he is living with and is undivided from the person on whose behalf he accepts service

(d) Where service is accepted by an agent, it should be stated whether such person is duly authorised to accept service

(e) Where a person refuses to accept the process, the grounds thereof, if any, and the names of the persons witnessing the refusal should be given.

(f) Where a process is affixed owing to the absence of the individual named therein, it should be stated, if possible, both when he left home and when he is likely to return. The attempts made to find out the person to be served should also be stated (see Note under rule 83).

(g) When personal service is not possible on *pardanashin* women, an attempt should be made to serve some responsible male member of the family.

Note.—See also the instructions in G. L. No. 9 of 1935.

93. When the summons or notice which has been served is the summons or notice of another Court transmitted to the serving Court for the purpose of service only, then, upon service being effected, this latter Court should retransmit the summons or notice to the Court by which it was issued, together with (1) the Nazir's return, (2) the declaration or deposition of the serving officer and the affidavit or solemn declaration or deposition of the witnesses (if any) relative to the facts of service, (3) the record of such Court's proceedings with regard thereto (Or. 5, r 23), and (4) in a case where any of these documents is in a language different from that of the district from which the process issues, an English translation of such document

D.—Additional Rules relating to the service of Notices, etc., issued by the High Court.

94. On receipt of the proceedings of the High Court, transmitting the notices of appeal, application, etc., the lower court shall cause their

E.—Service on Persons in Civil and Military Employ.

99. Attention is invited to the provisions of Or. 5, rr. 27 and 28 and Or. 16, r. 8, regarding service of summons on public officers or soldiers in military employ, or servants of railway companies or local authorities. In such cases, a reasonable time should be allowed for the making of arrangements for the relief of the persons summoned and to enable them to appear themselves or to appoint a representative or make such other arrangement as may be necessary.

Note 1.—In the case of officers of His Majesty's Naval, Military and Air Services, or His Majesty's Indian Marine Service, the provisions of Or. 5, r. 28 should be followed.

Note 2.—In the cases set out in this rule and in Note 1, the process should be sent under cover, or, in appropriate cases, by letter, in the manner provided by Or. 5, r. 30.

Note 3.—A minimum period of four months from the date of posting should be allowed for the return of summonses, notices, etc., addressed to soldiers of the Indian Army serving in Shanghai, Tientsin, Shanhaikwan, Peking or other places in China [G. L. No. 7 of 20th May, 1907].

Note 4.—In the case of soldiers serving in Burma and other distant places such minimum period should be as noted against each [G. L. No. 7 of 1911].—

1	All stations on the Persian Gulf, except Tabriz	..	4 months
2	Tabriz	..	5 months.
3	Somaliland	..	} 3 months.
4	Uganda	..	
5	Straits Settlements	..	} 4 months.
6	Nyassaland	..	
7	Ceylon	..	} 2 months.
8	Andaman Islands	..	
9	Aden	..	
10	Burma	..	..

Note 5.—The attention of all Civil and Criminal Courts in Bengal and Assam is invited to the following rules, which have been approved by the Government of India, relative to the dress of military officers and soldiers appearing before Civil or Criminal Courts (other than Courts established under military law).—

(1) An officer or soldier required to attend a Court in his official capacity should appear in uniform, with sword or side-arms. Attendance in an official capacity includes attendance—

(a) as a witness when evidence has to be given of matters which came under the cognizance of the officer or soldier in his military capacity;

(b) by an officer for the purpose of watching a case on behalf of a soldier or soldiers under his command.

(2) An officer or soldier required to attend a Court otherwise than in his official capacity may appear either in plain clothes or uniform.

(3) An officer or soldier shall not wear his sword or side-arms if he appears in the character of an accused person or under military arrest, or if the presiding Judge of the Court thinks it necessary to require the surrender of his arms in which case a statement of the reasons for making the order shall be recorded by the presiding Judge, and, if the military authorities so request, forwarded for the information of His Excellency the Commander-in-Chief.

(4) Fire-arms shall under no circumstances be taken into Court.

2. Arrangement and Distribution of Work in the Nazarat.

100. (1) Process-serving peons must be required carefully to attend to the directions of the Code and the High Court rules as to the service of processes. It shall be particularly impressed upon them that wherever practicable, the service must be personal service as defined in note 1 under rule 76 *ante*.

102. Every Nazir shall maintain for the jurisdiction for which he is the proper officer for service of processes :—

- (i) a list of all places within a five-mile radius of his office;
- (ii) a list of all places outside such five-mile radius.

Note.—A map showing the villages and thanas in the area under the jurisdiction of the Courts and their distances from each other and from the headquarters should be hung in every Nazarat

103. Processes for service at places within the five-mile radius shall ordinarily be sent out every working day (whenever necessary) and should ordinarily be returned on the next day and not later than the day following.

104. The Nazir shall divide the area outside the five-mile radius into convenient beats or circles where processes should be sent at regular intervals and shall make the best possible arrangements for the prompt service of processes of each beat. The boundaries of the circles and the fixation of the intervals may be varied from time to time as experience dictates. He should also prepare a statement showing on what days process-serving peons are sent out for service in any particular beat and how long the process-serving peon is supposed to be away on that particular beat.

Note 1.—The statement should be in the following form :—

Illustration

Beat No. 9—Processes issue every Tuesday. Process-serving peon returns after 8 days.

Note 2.—The distribution of processes on the beat system will of course have to be departed from in cases of urgent processes or in cases where there is an accumulation of processes for a particular beat

105. Returnable dates should not be fixed at random, but sufficient time should be allowed so that the processes for one trip may all be served and returned a reasonable time before the dates fixed in the cases concerned. In fixing dates, the distance to be travelled, the season of the year, the conditions of the locality, the number of processes made over at a time, etc., should be taken into consideration.

Note.—When a peon entrusted with the service of several processes finds that there is no reasonable chance of his being able to serve all the processes in the same trip and to return them in sufficient time before the due dates, he should at once send back by post the processes that cannot be served, so that the Nazir may give out such processes to other peons for service if there is sufficient time before the hearing dates. Or, when a peon finds that he cannot return to headquarters before the returnable dates because he has to serve other processes, he should return the processes that he has already served by post before the returnable dates so that the work of the Courts concerned may not suffer.

106. To equalise the work of process-serving peons a certain amount of short beat work as well as a certain amount of long beat work should be given to each peon and there should also be, as far as possible, equality in the number and kind of processes distributed. The Judge in charge of Nazarat should as often as time permits and at least once a month have the processes distributed under his personal supervision.

Note.—(a) It shall be particularly seen that all peons to whom processes have been distributed for service leave their headquarters immediately on receipt of processes

(b) A Register [(R) 18-A] is prescribed for entering the processes distributed to the peons and inspecting how the work of distribution is being done.

(3) Processes for a particular beat should except in urgent cases be ordinarily made over for service to the Nazir by the office concerned at least two days before the day of departure of the peon for that beat.

113. Processes made over to the Nazir for service must be returned by him to the issuing Court as soon as possible after they are received back from the peons so as to reach such Court for scrutiny in sufficient time and at least two clear days before the date fixed for hearing of the case or matter.

Note.—When processes are returned unserved a considerable time before the date fixed for hearing, it shall be the duty of the Nazir to give out the process for re-service if there is sufficient time before the hearing

See also paragraph 5, Civil Suit Instructions Manual, 1935.

114. The following processes may be executed by special peons:—

- (i) Warrant for arrest of a person
- (ii) Warrant for attachment of moveables
- (iii) Any other process ordered by the Court either *suo motu* or otherwise to be so executed.

Note.—More than one peon may be deputed for the execution of any process where there is such a direction of the Court to that effect

115. When not employed in serving processes, process-serving peons should be employed in miscellaneous work in the Courts and offices.

Note 1.—As to employment of process-serving peons in miscellaneous work, see also Bengal Judicial Resolution No. 3384 J. of 31st October 1903, reproduced in "Guide to Laws and Orders in Force in Bengal," 1925, Volume X, page 48.

Note 2.—No process-serving peon shall be employed in doing clerical work for the office.

Note 3.—Process-serving peons when on duty in Court and out on process-serving work, must always wear and display their standard badges

Note 4.—Process-serving peons must report themselves to the Nazir and make over to him the diary and all processes with which they were entrusted for service immediately on return to headquarters from a journey. The Nazir must see that this rule is strictly obeyed by each peon and report cases of non-compliance to the Judge in charge.

Note 5.—(a) During the interval between return to headquarters and departure for service of processes, peons must attend office punctually at the hour prescribed in rule 6 *ante* when a roll-call shall be taken every day and perform such miscellaneous duties as may be assigned to them.

(b) When signing the Attendance Register everyday, the Judge in charge should from time to time ascertain whether all peons at headquarters have actually come to Court and taken up the duties assigned to them and also inspect the process-registers and diaries in order to see whether the peons who were to have returned from mufassil have come back within the due date

116. (1) The Nazir at district headquarters may, if considered necessary, be deputed in the interior to verify either before or after the disposal of cases a certain proportion of the returns of processes issued by the Civil Courts in the district to be fixed by the District Judge. The selection of processes should be made after calling for a report from the Courts of processes which are regarded as suspicious.

(2) During the Nazir's absence on such duty, the senior Naib-Nazir or a clerk shall be appointed as cashier on the condition laid down in the note to rule 854, but no application will be entertained for increase of staff on this account

CHAPTER 4.

FOREIGN PROCESSES.

1. Service in places outside British India.

117. The provisions of the Civil Procedure Code as to service outside British India (Or. 5, rr 25 and 26; Or. 16, r. 8; Or. 48, r. 2) are applicable to the service of summonses to appear and answer, notices of appeal, summonses to give evidence or produce documents and generally to all orders, notices and other documents required by the Code to be served.

118. The main provision of the Code for service outside British India is that such service shall be by post. The summonses shall be forwarded to the defendant and not to a British or foreign official for service upon him.

119. (1) A summons should be sent by registered post and if the defendant does not appear or is not represented, proof should be given (i) that at the time of the service the defendant ordinarily resided and was actually residing at the foreign place in question, and (ii) that a cover correctly addressed to him, containing the summons was posted, the postal acknowledgment being produced or annexed to the affidavit.

(2) Service by post while necessarily confined to cases where there exists postal communication between the place where the Court is situate and the place in which the person to be served resides, will in practice cover the great majority of cases and resort is not to be had to any other method for service upon persons outside British India save for sufficient reason.

(3) The principle is that though there are other methods of service, *e g.*, through official channels, the Code *does not require* service outside British India to be made by official channels.

120. (1) The special provision made by cl. (a) of r 26 of Or. 5 is intended for service on persons in Indian States, and is not applicable to Great Britain or British possessions generally; still less to foreign countries: but only to territories under or connected with the Indian Government.

(2) By notification No. 322-I, dated 15th May, 1929, the Governor-General in Council directed that a summons issued by any Civil or Revenue Court in British India for service within the limits of the jurisdiction of a Court established or continued by the authority of the Governor-General in Council in any territories within the limit for the time being of the Indian (Foreign Jurisdiction) Order in Council, 1902, shall, if sent to such Court, be served by that Court in the manner provided by the Civil Procedure Code and after being so served be returned with such an endorsement under the hand of the Judge of the Court as is mentioned in Or. 5, r. 26 of the Code (*cf* Appendix I to this Part).

be forwarded through the High Court and the local Government to the Government of India for being sent to His Britannic Majesty's Consul-General at Bangkok (Notification No. F. 1180/33-Judl., Home Department, dated the 16th April, 1934). The names and addresses of the individuals upon whom service is desired should be stated clearly in the forwarding letter (Notification No. F. 734/34-Judl., Home Department, dated the 4th October, 1934).

The same procedure should be followed in the issue of summonses, etc., for execution in the *Netherlands*. The necessary documents should be forwarded through the High Court and the local Government to the Government of India for transmission to His Majesty's Consul-General, Batavia (Notification No. F. 481/33-Judl., Home Department, dated the 11th May, 1933).

Note 3.—There appear to be at least two cases of Courts outside British India which have not been brought within Or. 5, r. 26 but to which process may be sent direct for service without objection on the part of the foreign authority.—

(a) *Chandernagore*—Where service by post is not possible, processes for service may be sent to the Judge President, Chandernagore and the fees as prescribed from time to time are to be remitted therewith.

Note 4.—Reports of service or communications from the French authorities are sent in French and the French authorities should not be asked to translate them into English. If adequate translations cannot be obtained locally, the papers may be sent to the Under Secretary to the Government in the Political Department for the purpose.

(b) *Straits Settlements*—There is no objection to the Judge of a Court in India sending the process of his Court direct to the corresponding Court in this colony for service. Thus a District Judge in British India may send processes for service to a Court of Requests in the Straits Settlements. Such processes should be accompanied by a letter requesting service and by fees for service (25 cent or a dollar for each defendant) and for return postage. Fees to be sent by Post Office Order and not in stamps (This procedure is not advised).

123. Where service is not to be effected by post under r. 25 of Or. 5 or by transmission to a Court to which r. 26 of Or. 5 applies, subordinate Courts should adopt (except in the case of Chandernagore *see supra*) the method of Letter of Request. This is to be addressed to the foreign Court in question if known. If the appropriate Court is not known, the name may be left to be filled in afterwards. It is to be forwarded through the High Court and Local Government to the Government of India for transmission by the appropriate official channel.

124. (1) Processes intended for service through official channels on individuals resident in foreign countries, shall be forwarded through the High Court to the Local Government for transmission to the Government of India for necessary action.

(2) Such processes shall be accompanied by an explanation to the High Court of the reasons why the service is not made by post under r. 25 of Or. 5. Where in the opinion of the High Court no sufficient reason is disclosed the process shall be returned to the issuing Court and shall not be forwarded to Government. Such processes shall also be accompanied by a translation of all documents into the language of the foreign country within which the service is to be made.

125. All Courts when issuing process for service outside British India should take care that the time limited for appearance or returnable date shall be such as to enable the process to be served and the person served to do what is required of him. This applies to all forms of process and to all methods of service.

Note.—Repeated complaints on this score have been received from foreign countries who very properly object to their Courts or officers being asked to serve within their jurisdiction summonses, *e.g.*, to appear before a Court in British India on a date already past or otherwise impracticable. Both Iraq and the Straits Settlements have suggested that the returnable date should be at least three months after the date of despatch of the process.

Note 1.—By agreement between the Governments of India and Persia it would appear that summonses from Persia will only be sent to British Indian Courts through the diplomatic channel (*cf.* Home Department letter No. F. 578/31, dated 30th June, 1931, enclosed with G. L. No. 6 of 1931).

Note 2.—As regards service of processes from the Civil Courts of France, Spain, Belgium, Russia and Portugal (1) no charge is to be made for service of such processes, (2) translations in English will accompany the processes and other papers, and (3) the privilege extends only to processes forwarded to the subordinate Courts for service through the High Court [G. L. No. 4 of 2nd June, 1913, and No. 11 of 10th December, 1915].

Note 3.—While the Civil Courts in Japan have been notified under sec. 29, the Government of India appear to have stipulated with Japan that (1) translations in English must accompany writs and other papers and (2) writs must be sent through the British Ambassador at Tokyo to the Government of India (*cf.* enclosures sent with Home Department letter No. 1956, dated 8th December, 1920).

CHAPTER 5.

PRODUCTION OF PUBLIC DOCUMENTS AND RECORDS.

130. (1) Attention is invited to r. 10 of Or. 13 which states the law as to the production of court records. The principle of sub-rule (2) of that rule may well be applied to other public records.

(2) Affidavits under Or. 13, r. 10 (2) setting forth the necessity for production of records, are required to show not merely that the record is material to the suit, but how it is material; also that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy or in what way the production of the original is necessary.

131. Subject to any provision of the law to the contrary, the originals of public and municipal records should not be called for when duly authenticated and certified copies of the same are admissible in evidence and will serve the purpose for which the records are required.

Note.—All subordinate Courts should take special care to prevent the unnecessary production in Court of public documents as defined in sec. 74 of the Indian Evidence Act, 1872, or documents forming part of public documents or in public custody. When such documents are called for, the Court calling for them shall state the circumstances which render the production of the documents necessary. When, however, the Collector or other public officer in charge of the documents, has been summoned under Or. 16, rr. 1 and 6, of the C. P. Code, to produce in Court a certain document, it will be his duty to send it to the Court, but such officer may at the same time, in person or by letter addressed to the Court, object to the production of the document under section 123 or section 124 of the Indian Evidence Act (I of 1872), stating the grounds of such objection. On an objection being made, it shall be the duty of the Court to consider and decide according to law if it should compel the production of such document.

132. (1) When the Collector or other public officer in charge of documents has been summoned under Or. 16, rr. 1 and 6 to produce in Court a certain document or record, or when the Court has sent a requisition for a record from any Court or office under Or. 13, r. 10, it shall ordinarily be sent by registered post. If, however, owing to excessive weight or any other special reason, the documents or records cannot be sent by registered post, they should be sent by rail.

(2) It is not intended to prohibit the practice of sending records by a special messenger when such a course is considered advisable, *e.g.*, when the document to be sent is a State document of importance, etc., etc.

Note 1.—When a record is sent to a Court by an officer or messenger, or when a Government servant has to bring the record and appear as a witness to prove custody or to depose to any fact in his official capacity in private cases, he should get actual travelling expenses under rule 703 (3) (b), [See also, Note 1 to rule 703(?).]

Note 2.—When a non-gazetted or a menial Government servant of any rank is despatched as a messenger with any record or document from one Court or office to another at the same station, the actual expenses incurred, if any, may be charged to Government as contingent expenditure, provided the head of the office certifies that the charge was unavoidable [*vide* Bengal Audit Manual, Chapter VI, rule 106 (19)].

In regard to papers forming Part II of the High Court Record, no certified copy need be sent unless otherwise instructed

Note 5.—When a record or document is requisitioned from the High Court, Appellate Side, on the application of a party under Or 13, r 10, a searching-fee of rupee one shall be realised in court-fee stamps in addition to the fee prescribed under article 1A, Schedule II, Court-fees Act.

135. Requisitions made under the provisions of Or. 13, r. 10, by subordinate Courts for the production of records of cases pertaining to, and in the custody of High Courts other than High Court at Calcutta, or Courts subordinate to such other High Courts, should be transmitted through the High Court at Calcutta, and should be accompanied by a copy of the affidavit referred to in the rule above quoted, together with a duly certified translation into English if such affidavit be in the vernacular.

136. When, in the course of proceedings in a Criminal Court, it becomes necessary to refer to the contents of records deposited in another Court, the ordinary procedure is to require copies of the necessary papers to be filed. It frequently happens, however, that in the course of a criminal trial the production of an original record becomes necessary. In such cases the Court where the record is deposited shall comply with the requisition of the Criminal Court requiring its production. Judges or Magistrates making such requisitions are, however, required to state therein that the production of the original is necessary, and the reason of the necessity. If the Court receiving the requisition is of opinion that the reason given for requiring the production of an original record, instead of a copy, is insufficient, it should nevertheless comply with it, reporting the matter for the consideration of the High Court.

137. Whenever public documents or records received from any Court or office are no longer required, they shall be returned immediately.

138. The attention of all Courts is drawn to the following Government Resolution No. 1538, dated the 13th May, 1891, regarding the production of Post Office records, issued by the Director-General of Post Offices:—

A summons from a Court of Civil or Criminal Jurisdiction to produce any of the records of a Post Office, or a certified extract from or copy of any of such records, must be complied with. The receipt of such a summons, and such particulars as are known to the Postmaster regarding the case, should be at once reported to the Postmaster-General, in case he should see fit to raise any objection in Court under sec. 123 or sec 124 of the Indian Evidence Act (I of 1872) to the production of any of the records. When any journal or other record of a Post Office is produced in Court and admitted in evidence, the officer producing it should ask the Court to direct that only such portions of the record as may be required by the Court shall be disclosed.

CHAPTER 6.

GUARDIANS AD LITEM OF MINOR DEFENDANTS AND RESPONDENTS.

A.—In Original Suits.

139. (1) Where there are both major and minor defendants and there is no appearance, the guardian, with a view to obtain instructions in the case, should communicate with the natural guardian of the minor and ordinarily with the major defendants by registered reply post-card in which the subject matter of the suit should be briefly stated.

Note 1.—If a pleader is appointed in a case where there are both adult and minor defendants having the same interest, the pleader who represents the former should ordinarily be appointed guardian *ad litem* of the latter (*see*, Note 4 to rule 60)

Note 2.—When the plaintiff is allowed to sue in *forma pauperis* the guardian *ad litem* of minor defendants (where necessary) should be an officer of the Court

Note 3.—Where the number of major defendants is numerous, the guardian should seek the Court's instruction as to how many and which of them he should communicate with.

(2) Where the sole defendant is a minor, the aforesaid communication should be addressed to his natural guardian, and in any case where the interests of the minor require, may be addressed to persons other than those who are actually parties to the suit.

(3) If no response is received to the communication mentioned in sub-rules (1) and (2) or if the response is not helpful and the guardian is unable to have a personal interview with the defendants or their agents, he should report the fact to the court in writing, with a statement of the circumstances, and apply for leave to go to the locality for necessary enquiry.

(4) The guardian's report on such local enquiry, if permitted, should contain the following particulars:—

- (a) Date and hour of departure for the locality.
- (b) Mode of journey, viz, whether by rail or steamer or boat or road.
- (c) Date and hour of reaching the locality.
- (d) The names of persons who identify the minor.
- (e) Age of the minor as stated by the minor's people and as estimated by the guardian.
- (f) The names and residences of persons in whose presence the enquiry is held
- (g) Whether the minor has any defence.

(12) If the step taken under the last preceding sub-rule does not elicit any satisfactory results, the guardian should consult the record and submit a report to the court in which he should state whether in his opinion the judgment and decree of the lower Court can be supported and if such opinion is in the affirmative, why he should not argue the case himself before the Court. A written note on the merits of the case should accompany the report and he should in all cases follow the instructions in sub-rule (8) and append the certificate referred to therein.

(13) An amount estimated to cover the actual travelling and halting expenses of the guardian, not exceeding the scale laid down by rule 140, will be required by the Court to be deposited by the party at whose instance the guardian is appointed before an order is passed for a local enquiry mentioned in sub-rule (3). The amount so deposited or so much of it as may be found due will be paid out to the guardian when he has submitted his report mentioned in sub-rule (4).

(14) The fee prescribed by the High Court and the actual postal charges for communication mentioned in sub-rules (1), (2) and (11) will be deposited into court before appointment of guardian *ad litem* and paid to the guardian on submission of his report.

Note.—As to fees for guardians *ad litem*, see rule 715

140. The rate of travelling allowance to be allowed to the guardian, both in the case of an original suit and of an appeal, shall be his actual fare each way according to the class by which persons of his rank and station in life would ordinarily travel with a daily fee not exceeding Rs. 4 for the days he may be away from the headquarters excepting the days on which the guardian is actually travelling.

Note.—Where the journey is by any kind of conveyance by road or water regard should be had to the scale laid down in rule 703 (3) (b)

CHAPTER 7.

FIXING OF DATES AND ADJOURNMENTS.

141. When witnesses are in attendance for any party, the fact should be noted in the order-sheet. In every case adjourned for hearing or for further hearing, a specific order should be recorded directing the witnesses who have attended but who have not been examined, to attend on the adjourned date, and it shall be the duty of the Bench Clerk to communicate the order to the witnesses (*see* also, rule 465). On the application of a party, the Court may in a fit case require a witness in attendance to furnish security to attend on the next or any other date of hearing [Or. 16, r. 16 (2), C. P. Code].

142. The time given should vary according to the purpose for which an adjournment is granted. While sufficient time should be given to litigants to enable them to take the necessary steps towards getting their cases ready for hearing, not more than one adjournment for the same step ought generally to be required.

143. When an adjournment is ordered, a future date ought not to be fixed at random as a matter of form. The circumstances of each case, as for example, the distance witnesses have to travel, and sometimes the season of the year, as well as the state of the files and, as far as possible, the prospect of the case being heard, should be considered. It may well be that in some instances it is less hardship to detain witnesses from day to day than to discharge them, requiring them to return after a considerable interval. In every case, however, the adjournment must be to a day certain [Or 17, r 1 (2)] and no judicial proceeding of whatever nature shall be postponed *sine die*: provided that in a suit in which a preliminary decree has been passed, the Court may adjourn the proceeding *sine die* with liberty to the party entitled, to apply for the passing of a final decree within the period of limitation (*Lachmi Narain v Balmakund*, 29 C. W. N., 391 P. C., at page 394).

Note.—The High Court does not issue judicial orders by telegram, and the action to be taken by a Court in regard to telegrams said to have been received by a party or his legal adviser communicating the substance of an order of the High Court is one for the discretion of the Court. A Court, if informed by a responsible advocate or pleader that, for instance, a proceeding pending before it has been stayed by the High Court, may in its discretion grant a short adjournment sufficient to allow of the authoritative orders being received by post, but no adjournment can be demanded as of right on the strength of a private telegram.

144. (1) The number of cases fixed for each day for peremptory hearing and other purposes should be severely restricted to such a number as, after making allowance for unavoidable postponements, the Court may reasonably expect to be in a position to deal with.

Note 1.—A careful scrutiny of section B of the revised monthly statement in Form No (S) 1 will enable the District Judge to have an idea as to how far this rule is being followed.

(b) Lists shall be prepared in English and shall remain posted for one week after which they shall be filed in the office. At the end of every quarter the list of the previous quarter shall be destroyed.

Note 2.—Owing to the difficulties known to be experienced in maintaining the lists as laid down above, the High Court favour the maintenance of a register in the same form in which the necessary entries shall be made and signed by the presiding Judge as indicated above. The register shall be laid at some conspicuous place in the court-room on the day and at the hour indicated in Note 1 and shall be made available every day thereafter for inspection by parties and pleaders.

146. In dealing with applications for adjournments, Courts shall be guided by the following instructions.—

(1) Adjournment is a matter entirely in the discretion of the Court [Or. 17, r 1 (1)]. Upon an application for adjournment, the Court shall consider the interests of all parties and the particular circumstances of the case. Adjournments granted otherwise than on full and sufficient grounds tend to encourage laxity and negligence and are a hardship upon parties who are ready.

(2) A date for peremptory or final hearing, once fixed, shall, so far as is practicable, be strictly adhered to and no adjournment granted except for very good and sufficient cause. Laxity or want of firmness in the matter of adjournments in peremptory cases, causes a serious waste of time of the Court and much inconvenience and expense to suitors and witnesses, especially to those whose means are limited, and who cannot afford the frequent loss of a day's earnings by attendance at the Court. Adjournment orders in such cases should contain reasons for the adjournment and shall be drawn up in the hand of the Judge.

(3) The absence of the advocate or pleader of a party, or want of preparation on his part, whether arising from insufficient instructions, or otherwise, shall not of itself be a sufficient ground for an adjournment.

(4) A number of Courts are inclined to grant adjournment merely because the party at fault is prepared to pay costs, or because both sides apply for adjournment. Courts should bear in mind that the offer of costs or the fact that both sides are willing to get an adjournment is not of itself a sufficient ground for an adjournment.

(5) The rules regarding the filing and calling for documents in proper time (Or 13, C P Code) should be strictly observed and parties have no right to ask for adjournments in order to produce documents if by exercise of diligence they could have procured them at the earliest possible stage.

Note.—Attention is invited to the provisions of Or 13, r 2 which require that a Court receiving any documentary evidence at any time other than the stage indicated in Or 13, r 1, shall record the reasons for so doing.

(6) Arguments should be heard immediately after the evidence closes and a case should not as a rule be adjourned for arguments after all evidence has been given, unless it is long and complicated. If any adjournment is necessary, reasons should be recorded by the presiding Judge and it should never be for any but a very brief period.

Note 1.—Arguments when once commenced shall be heard from day to day and throughout the day until completion. The rule is not observed by devoting only a small portion of each day to the purpose.

Note 2—It ought not to be necessary to require the pleaders to submit written notes of their arguments. It is the duty of the Judge to take such notes of the

compliance with the order, but it shall be the duty of the advocate or pleader to file in Court as early as possible and not later than two weeks, a proper receipt showing that the money received by him has been paid by him to his client or clients and the Court should in all cases insist on the filing of such receipt.

Note 1.—The rule as to filing receipt applies also to all such costs deposited into Court in favour of a party and withdrawn by his advocate or pleader.

Note 2.—In the case of illiterate clients, the receipt shall be endorsed with their thumb impression

(4) An advocate or a pleader failing to file the receipt required by this rule shall deposit into Court the costs received or withdrawn by him.

(5) Whenever a person to whom costs of any kind are ordered to be paid as condition precedent, or his agent, or a representative who in the opinion of the Court is competent to receive payment, is present in Court, the money may conveniently be passed direct to the person so entitled or the said agent or representative in open Court and an acknowledgment of receipt obtained forthwith from the person on the order-sheet, the fact being noted by the presiding Judge in the record of the case (*cf.* rules 205 and 748).

Note 1.—Such costs when paid into Court must be treated as peremptory receipts (rule 747) and disposed of in the manner prescribed there.

Note 2.—While the Courts have full liberty to exercise their discretion in each individual case, the High Court consider that, in the absence of special circumstances, and when the costs allowed as condition precedent do not exceed rupees five, it is reasonable that the party desiring the adjournment should come prepared to compensate his opponent for the inconvenience or loss to which is put, and that the Court will be justified in making the adjournment conditional on the money being paid then and there. In suitable cases, however, the Court may make the next or further hearing of the case on the adjourned date conditional upon the payment of the costs awarded, on or before that date.

Note 3.—Where adjournment or other such costs have been paid into Court, the fact of such payment should be noted on the order-sheet by the Sheristadar. It will thus be possible to see from the order-sheet what sum, if any, still remains unpaid. All such costs remaining unpaid shall be entered in the decree as costs in favour of the party entitled to them and set off against the amount, if any, payable by him to the other party under the decree [Or 20, r. 6 (3)].

Note 4.—Adjournment costs are intended to recoup a party's opponent for the loss or injury occasioned by the adjournment and so, when a party paying the adjournment costs eventually succeeds in the case, the party to whom costs were awarded should not be made to refund them by inclusion in the other costs that may be awarded against him in the case.

151. It is of the utmost importance that frequent and unnecessary postponements and attendance of witnesses should be consistently discouraged, and a District Judge should call for and scrutinise some of the records of the cases before any of his subordinates who appear, from their explanations regarding long pending cases or otherwise, to be wanting in firmness in the matter.

Note 1.—Any tendency towards laxity in the matter of granting adjournment on the part of subordinate Courts should be duly noticed and checked by the District Judge. A careful scrutiny of the revised monthly statement in Form No. (S) 1 and the adjournment statement in the "Short Case Diary" (*vide* rule 13) will enable the District Judge to have an idea as to whether proper discretion is being exercised in the matter of adjournments.

Note 2.—This rule is not to be understood as affording any encouragement to the disposal of cases in an arbitrary, hasty or unjust manner in order to show a large numerical disposal of cases. Judges are, however, expected to check deliberate and inordinate delays and to use all judicial means in order to bring cases to trial within a reasonable time.

CHAPTER 8.

PREPARATION FOR TRIAL, FRAMING OF ISSUES AND RECORDING OF EVIDENCE.

1. Use of Rules relating to Discovery, Inspection, Admission, etc.

153. (1) The provisions of Ors. 11 and 12, C. P. Code, relating to "Discovery and Inspection" and "Admission" (based on the English Rules of Practice) were introduced into the Code of 1908 to save both time and expense and to shorten litigation by preparation of cases before trial. But after 26 years these valuable provisions are found to be rarely, if ever, availed of, with the result that not only are suits protracted beyond all reasonable length and costs needlessly sacrificed but no real progress with the case is made at all before it comes on for hearing. The prevailing practice is extremely unsatisfactory and the importance and necessity of a systematic use of these provisions cannot be too strongly insisted on. The machinery of Discovery, Inspection, etc., if properly understood and utilised, settles many side issues and a quantity of controversial matter and extracts from either side all the material documents in its possession at an early stage of the suit, so that cases come up fully prepared for trial and their duration is shortened.

(2) Presiding Judges should make themselves thoroughly conversant with the rules relating to Discovery, Inspection, etc., and the High Court desire it to be understood that henceforward definite and systematic attempts should be made to apply them in all suitable cases. The co-operation of the Bar is essential but if the Bar or the litigants will not appreciate the great advantage of these provisions, presiding Judges should themselves take the initiative and regard it as a part of their ordinary duty to make use of sec. 30, C. P. Code, which gives express and clear powers to the Court to make orders in these matters of its own motion. One powerful instrument for impelling the parties to action is to make stringent and unfailing use of the salutary provisions of Or 12, r 2 that when a party has refused or neglected to admit, the subsequent costs of proving the documents should be paid by the party so neglecting or refusing, whatever the result of the suit may be, unless the Court otherwise directs; and that no costs of proving the documents should be allowed unless the notice mentioned in that rule is given, except where the omission to give notice is, in the opinion of the Court, a saving of expense.

Note 1.—If the provisions of Ors 11 and 12 are made use of by pleaders, costs may be awarded under rule 724 in addition to any fees prescribed in rules 717-723.

Note 2.—In forming an estimate of the merit and general efficiency of judicial officers, their ability to make a systematic and intelligent use of these rules will be taken into consideration, and the District Judge should in his inspection report note whether the provisions referred to are being systematically and effectively made use of.

(b) Every issue of fact shall be so framed as to indicate on whom the burden of proof lies

(c) Every issue of law shall be so framed as to indicate, either by a statement of admitted or alleged facts, or by reference to the pleadings or some document mentioned therein, the precise question of law to be decided.

Note.—When the claim or any portion of it is alleged to be barred by any law, the issue shall also state the Act and section or rule or other authority under which it is so barred.

(d) Every issue should form a single question and as far as possible should not be put in an alternative form

(e) No proposition of fact which is not itself a material proposition, but is relevant only as tending to prove a material proposition, shall be made the subject of an issue.

(f) No question regarding admissibility of evidence shall be made the subject of an issue.

(2) When the Court is of opinion that there are issues of law going to the root of a case, it may raise such issues only and try them first (Or. 14, r. 2, C. P. Code). In this connection, see also Or. 15, r. 3, C. P. Code, under which some of the issues framed can be tried at the first hearing when the Court is satisfied that the argument or evidence that the parties can at once adduce is decisive of the matter in dispute. Issues regarding valuation of suit and similar issues may conveniently be disposed of at a very early stage of the suit without keeping them for trial along with the other issues affecting the merits of the case.

Note.—As to framing of issues, see also paragraph 12, Civil Suit Instructions Manual, 1935.

3. Recording of Evidence.

*156. When the evidence is not taken down in writing by the presiding Judge, the memorandum required by Or. 18, rr. 8 and 13 shall be in English, and should he be unable to make the memorandum himself, the procedure laid down in Or. 18, r. 14, shall be strictly followed. The presiding Judge's memoranda should always be made in a clear and legible manner.

Note 1.—As to the procedure when evidence is dictated to a person, see *Promoda v. Harish*, ILR. 55 Cal 1084

Note 2.—As to "opening" of a case before trial, see paragraph 22, Civil Suit Instructions Manual, 1935.

157. The use of a typewriter for recording depositions and memoranda of evidence is strongly recommended, provided the typing is done by the presiding Judge himself, a certificate is given that this has been done and he signs or initials each page as soon as he completes it, except in the case referred to in Or 18, r. 14.

Note.—Judicial officers using typewriters can obtain typewriter accessories from the Central Stationery Office, Calcutta, on payment out of their private funds. (Finance Department No. 5882 Misc., dated 28th October, 1931).

CHAPTER 9.

JUDGMENT, DECREE AND COSTS.

1. Judgment.

159. The attention of the Courts is drawn to the provisions of Or. 20, rr. 1-5 and sec. 33, C. P. Code, regarding the preparation and pronouncement of judgments. The Courts shall be guided by the instructions in the following rules.

160. Unless a typewriter is used, all judgments, proceedings and depositions should be written only on one side of foolscap paper in a clear and legible hand, one quarter margin of every sheet being left blank. Long judgments must not be recorded on the order-sheet. [*See also, rule 466 (I)*].

161. (1) Or. 20, rr. 4 and 5 and Or. 41, r. 31, C. P. Code, declare what a judgment should contain. Judgments should be written in language plainly to be understood. They shall not be too long and too laboured. The rule requiring a judgment to contain a concise statement of the case [Or. 20, r. 4(2)] is misunderstood in many Courts. All that it requires is that the case should be stated in a few words so as to bring out its nature. The details of contest are found in the issues. The concise statement of the case should set out all the material averments of the pleadings, and the decision on each of the points for determination should be distinctly noted. Similarly the grounds of decision should be set forth as concisely as is consistent with the introduction and elaboration of all important matters.

Note.—"A judgment should set forth the evidence on each issue sufficiently to show what was its nature, what it proposes to establish, and what is its credibility, should apply the law, and show the reasons for the final conclusions. It is not necessary that an abstract should be given of the evidence of every witness, and the reasons should not be laboured. While the judgment in itself should make the whole case comprehensible, it cannot obviously be accepted as a substitute for the record. While it should assist the appellate Court, if an appeal is filed, it should not attempt to relieve the appellate Court of any portion of its duties" (see *Report of the Civil Justice Committee*, Chapter 4, paragraph 14, page 54).

(2) The finding or decision on each issue decided should be recorded separately in the judgment, unless the finding upon any one or more of the issues is sufficient to dispose of the case (Or. 20, r. 5). When two or more issues are so intermixed or interdependent that there is distinct advantage in taking them up together, it may be done.

(3) In English judgments, the use of vernacular or oriental words (not being technical, revenue or law terms) should be avoided if there exist complete and corresponding English equivalents. If a vernacular word is used, its nearest English equivalent should be added in brackets [*see G. L. No 5 of 1934, dated the 24th February, 1934.*]

(4) Witnesses should be described in the judgment not merely by their numbers but by their names. The names should be given not

(2) The statement submitted by Subordinate Judges and Munsifs shall be scrutinised carefully by the District Judge who will ordinarily pass necessary orders thereon with a view to avoid all unreasonable delay in delivery of judgment, but if considered necessary in any particular case, a report of the matter will be made by him to the High Court.

167. Every Judge proceeding on leave or transfer must write judgments in all cases and appeals heard up to and including the stage of arguments, unless the inability is due to illness or sudden making over of charge. In such cases, the Judge shall before his departure submit a statement in Form No (S) 3 with the necessary particulars entered in the appropriate columns and the reasons in the remarks column for not being able to write judgment

Note.—District and Additional Judges should submit the statement to the High Court and Subordinate Judges and Munsifs to the District Judge as in the last preceding rule

168. The practice of writing up judgments during the Court hours in the early part of the day is to be deprecated. Judgments may be written after the day's Cause Lists have been completed, as the judicial business of the day (as defined in the Note to rule 2) must have precedence over all other work

169. Judgments in *ex parte* cases should state specifically and explicitly which of the reliefs in the plaint are granted and against which of the defendants

170. Judgments should state specifically whether any or what interest (including interest *pendente lite*) is allowed, and also whether interest is to run only on the sum recovered under the decree or both on that sum and costs.

171. In the absence of special circumstances the High Court approves of the rate of 6 per cent. as a proper rate of interest after decree, within the meaning of sec 34, C P Code

172. Every Judge hearing or deciding a civil suit, proceeding or appeal, shall note in the final order or judgment and the decree, the powers or special powers (if any) exercised by him in disposing of such suit, proceeding or appeal.

173. (1) Shorthand-typists may be employed by judicial officers of all grades to record judgment, provided that a certificate be attached by the presiding Judge that it has been recorded at his dictation and is correct and each page of the judgment is attested by his signature.

Note.—Stenographers when not employed on the District Judge's work may usefully be lent to other officers of the station who require their services

(2) When a typewriter is used by the presiding Judge himself, he should append a certificate to that effect and attest each page by his signature.

174. When a judgment is not written by the Judge himself with his own hand, each page of it shall be attested by his signature and the judgment shall bear a certificate that it was written by the amanuensis at his dictation in his presence and that it is correct.

175. It is imperative that final judicial orders in all classes of cases or proceedings, or orders requiring judicial discretion or discrimination should invariably be written or typed by the presiding Judge himself.

and effectual method of carrying out the terms of sec. 375, C. P. Code (now Or. 23, p. 3) would be for the decree to recite the whole of the agreement and then to conclude with an order relative to that part that was the subject-matter of the suit, or it could introduce the agreement in a schedule to the decree; but in either case, although the operative part of the decree would be properly confined to the actual subject-matter of the then existing litigation, the decree taken as a whole would include the agreement" (*per* Lord Buckmaster in *ibid*)

Note 7.—As to decrees in suits for recovery of rent, *see* rule 373

179. The registered address for service filed by a party under Or. 6, r. 14-A, or such address after subsequent change, if any, shall be entered in the decree or formal order and not the address as given in the plaint. The following note shall be made in the decree or formal order below the names and addresses of the parties and the note shall be signed by the clerk drawing up the decree or formal order:—

"The addresses given above are the addresses for service filed by the parties with the exception of . . . who did not appear or omitted to file their addresses"

180. In suits where a preliminary decree is followed by a final decree, a final decree shall be drawn up in terms of the final judgment. The final decree being an adjudication completely disposing of the suit and conclusively determining the rights of the parties, it shall be full and complete in itself, so as to be capable of being understood and executed without any reference to the preliminary decree.

Note.—The preliminary and final decrees in mortgage suits should also contain concise but definite particulars of the claim on the mortgage bond as stated in the pleading, *e.g.*, date of bond, principal, interest, etc. Decrees passed under Or. 34, C. P. Code, should be drawn up in accordance with the new forms substituted under sec. 8 of the Transfer of Property (Amendment) Supplementary Act, 1929 (XXI of 1929) and embodied in Appendix D to the C. P. Code

181. Decrees shall show properly the names of parties added, substituted or expunged in the course of the suit. In the case of a decree after a remand, it shall show the substitution or addition of parties that may have taken place during the pendency of the case in the appellate Court (*See* also rule 361.)

182. Every decree should set forth the powers of the Judge deciding the suit, and particularly when it is under the B. T. Act

183. All decrees shall be prepared under the supervision of the Sheristadar who shall initial them and be responsible for their accuracy. In contested title suits, etc., including mortgage suits, and in such other suits as the Court may consider of sufficient importance, decrees shall be prepared by the Sheristadar, if it so directs.

Note.—*See* rule 486 and the notes thereto

184. Decrees shall ordinarily be prepared within seven days of the date of the receipt of the record in the office after delivery of judgment. For the purpose of exercising a check upon the work of the Bench Clerk and the decree-writer, the former shall, before he sends the records to the office, note the date of such despatch in the margin of the order-sheet against the order recording the delivery of judgment.

Note.—As far as possible decrees should be prepared in the order of the dates of disposal of cases.

185. (1) As soon as a decree has been drawn up and before it is signed, a notice shall be posted on the notice board in the prescribed Form No. (M) 5, stating that the decree has been drawn up and that the parties or their pleaders may within three working days from the date of the notice peruse the draft decree in the office during the hours fixed by the Court for the purpose and sign it if correct, or may file with the

(2) No decrees or formal orders are required to be drawn up in the case of interlocutory orders made during the course of a suit or execution proceeding.

188. In suits for money including suits upon mortgage, in suits for specific moveables, in suits for accounts and in suits for arrears of rent, no decrees need be drawn up if—

- (i) neither party has to recover anything, unless the presiding Judge otherwise directs;
- (ii) the claim is satisfied after judgment but before decree is drawn up.

3. Costs.

189. (1) Costs in decrees should be very carefully calculated. A party who has been awarded costs in the judgment or order shall be allowed all such costs, charges and expenses, as shall appear to have been necessary or proper for the attainment of justice or for defending his rights; no costs shall be allowed which appear to the Court to have been incurred or increased unnecessarily or through procrastination, negligence or mistake.

(2) Proper and necessary costs should exclude expenses like the following, unless the Court specifically directs otherwise:—

- (i) Court-fee stamps on all applications dismissed, or not allowed or not pressed.
- (ii) Court-fee stamps on all unnecessary or defective applications or applications to suit the convenience of a party such as, for adjournment of hearing, for time to file written or other statement or to take some step, for showing cause in case of any default or omission, for withdrawing a claim, for amendment of any pleading or petition, etc., etc.
- (iii) Expenses of affidavits improperly or unnecessarily incurred (*see* rule 50).
- (iv) Expenses of filing and proving all unnecessary documents or documents which the other party was not previously called upon to admit by notice (Or 12, r 2) or of exhibiting all unreasonable interrogatories (Or. 11, r 3).
- (v) Process-fees for serving persons dismissed from the suit, or found by the Court to have been unnecessarily impleaded, or the claim against whom has been dismissed, withdrawn or not prosecuted
- (vi) Charges incurred in procuring the attendance of unnecessary witnesses.

Note.—When the claim in a suit valued at above Rs 50 is decreed in part, reducing the value below Rs 50, court-fees on all necessary applications should be calculated at the proper amount payable on the reduced value.

190. Every Judge should at the time of passing order on each application note whether or not the costs of it should be costs in the cause.

CHAPTER 10.

EXECUTION OF DECREES.

1. General.

193. (1) Execution of decrees or orders should receive as much attention as original suits and appeals and every presiding Judge should see that the processes of the court are not abused and that the reliefs available under decrees are obtained by applicants and cases are disposed of as speedily as possible. The High Court consider that much time can be saved and abuses of the processes of Courts can be checked, if a certain amount of personal attention is given by the presiding Judge to execution cases and proceedings arising out of them.

(2) All cases of fraud, negligence, suppression of processes and resistance to execution should be carefully scrutinised by every Judge with a view to his punishing the offenders and taking such steps as may be necessary to prevent their recurrence.

(3) Close supervision and control should be exercised by District Judges over the execution of decree business pending in all Courts subordinate to them; and any officer who habitually neglects this branch of work or disposes of it perfunctorily or with unreasonable delay, should be reported to the High Court.

Note 1.—In awarding costs in execution and miscellaneous cases care should be taken to see that costs which should justly have been borne by the decree-holder are not charged against the judgment-debtor (*see also* rule 189)

Note 2.—As to execution of decree, *see also* paragraph 35, Civil Suit Instructions Manual, 1935.

194. Checking of execution applications as required by Or 21, r. 17 and other rules should be done with care and attention. While it is necessary to be satisfied that all essential and material particulars are correctly embodied, it should at the same time be impressed upon the ministerial officers authorised to receive applications that they are not to be returned on frivolous or vexatious grounds.

Note.—*See also* paragraph 35 (5), Civil Suit Instructions Manual, 1935.

195. The filing of a copy of the decree along with the execution petition is not compulsory, but if it is not possible to verify the correctness of the particulars in the application for execution from the Court register, etc., the Court may require the applicant to produce a certified copy [Or 21, r 11 (3)] and in the case of decrees for recovery of rent the special reasons for the production of the copy shall be recorded [sec 148 (n), B T. Act]

196. Every application for execution shall set out fully and accurately the particulars necessary under Or. 21, rr. 11-14, C. P. Code, and the whole of the relief which the applicant requires at the time of presenting the same and also state distinctly the mode in which the assistance of the Court is sought The Court

may, if it thinks fit, on admitting the petition, in any case in which the prescribed fees, etc., and subsistence moneys have been paid, order process to issue forthwith.

201. Where an application is made under Or. 21, r. 15, by one or more of several joint decree-holders, unless a written authority signed by the other decree-holders, for the applicant to execute the decree and to receive the money or property recovered, is filed in Court, the Court shall give notice of the order, if any, passed for the execution of the decree to all the decree-holders who have not joined in the application; and may also in its discretion give notice of any application for payment or delivery to the applicant, of any money or property recovered in execution, or may make such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

202. (1) Each peon entrusted with a warrant for execution of a decree for money shall be given by the Nazir a duplicate carbon receipt-book in the prescribed Form No (A) 31 bearing a distinguishing number, containing a number of receipts and their duplicate carbon copies serially numbered and preceded by the Book Number, the total number being certified on the cover by the Judge in charge of accounts.

(2) The Nazir shall keep a register in which he shall enter all duplicate carbon receipt-books received by him, showing (a) the date of receipt, (b) the serial number of each book, (c) the number of receipts it contains, (d) the name of the peon to whom the book is issued, (e) the number of process in the process register, (f) nature and number of case, (g) the date of issue, (h) the peon's signature for it, (i) the date of return and (j) the Nazir's signature. A separate duplicate carbon receipt-book is to be issued to each peon, and no new book shall be issued to him until the one already issued is exhausted and returned. The Nazir shall keep all blank or exhausted books under lock and key.

(3) The peon receiving any payment shall give a receipt therefor and shall obtain the signature or thumb impression of the payer to the declaration of payment on the counterfoil and shall in his service report invariably mention the number and date of the receipt granted. In the case of illiterate payers, the peon shall make every endeavour to obtain the signature of a literate witness on the back of the counterfoil. He shall also sign legibly the entry in the counterfoil. The receipts should be written legibly and all alterations must be duly attested. The amount realised by the peon must be paid into Court immediately after his return to the station and a carbon counterfoil attached to the process concerned. The Nazir shall, on the return of any process (for the recovery of money) by a peon, whether executed or not, scrutinise the service report with the duplicate carbon receipt-book, and if accurate, initial the counterfoils, and shall not make over any other process to such peon till he has done so. The Nazir shall record the return of the counterfoil (or of the unused form, as the case may be) in the register of receipts. If the receipt has been used, the Nazir shall send the counterfoil with the service-report to the Court concerned, to be filed with the record of the case. Defects or suspicious circumstances should be at once reported to the Court.

(4) After each trip, the peons should deposit their duplicate receipt-books with the Nazir who should keep them under lock and key in

(2) The person depositing the money has the option to cause notice to be served in the usual way by bringing into Court the necessary process-fees and the forms of notice.

208. (1) When payment under a decree is made out of Court or it is otherwise adjusted in whole or in part under Or. 21, r. 2 (1), a certificate in the form given below shall be presented to the Court without any formal written application. Such certificate need not be stamped. Should the certificate accompany a formal written application, such application must be stamped under the Court-fees Act; but the stamp shall not be charged as costs against the judgment-debtor. The form of the certificate shall be as follows:—

IN THE COURT OF THE . . . AT
 Plaintiff,
versus.
 Defendant.
 Suit No . . . of 19 .

Certificate by decree-holder under Or. 21, r. 2 (1), C. P. Code.

I , decree-holder, certify to the Court payment or adjustment in the following terms of the amount of Rs.....in the above suit by.....on the

Date.....

Decree-holder.

Note 1.—The certificate must not contain any extraneous matter or anything in the nature of a prayer. If it does, it should then be treated as an application.

Note 2.—The payment or adjustment shall be noted in the appropriate column of the Register of Suits.

(2) When peons entrusted with the execution of processes report in their returns any payment or adjustment which came to their notice but which has not been certified by the decree-holder, the Court should invite the pleaders engaged to communicate with their clients and to certify satisfaction when the reports are found to be correct, or issue notice to the decree-holder to show cause why it should not be certified.

209. Unless it appears to the Court that the personal attendance of the party is necessary, money payable in satisfaction of a decree or order may be transmitted to the Court by postal money-order or in Government universal currency notes. In such case, the payer shall, before transmitting the money, send to the Court concerned, in a pre-paid registered cover, a schedule containing full particulars regarding the intended deposit, and state the manner in which the money is to be sent.

Note.—The schedule referred to shall state the name of person(s) on whose behalf the money is sent, name of person(s) to whose credit the amount is to be placed, number of suit, appeal or matter, or execution case (if any), the decree or order in pursuance of which the payment is made, or the reason for the payment, and the several sums (principal, costs and interest) and the total amount thereof and such other information as may be necessary.

210. The money-order or the cover and the amount shall be received by the Nazir under the order of the presiding Judge of the Court concerned who will have the requisite chalans prepared and the

(2) Register showing the remittance of decretal amounts by Money Order.

Date of remittance.	To whom remitted	Particulars of remittance	No and date of payment order by which the money is withdrawn from the treasury	Amount remitted			Date of receipt of acknowledgment	Initial of the Judge-in-charge	Space for affixing money order receipts and payees' acknowledgments.
				Principal	Incidental charges	Total			
1	2	3	4	5	6	7	8	9	10

3. Attachment.

A.—Attachment of Immovable Property.

213. Every application for attachment and sale of immovable property shall in addition to other particulars required by law or any rule, contain a description of the property sufficient to identify it, its area and annual rent and shall also state clearly and specifically the nature and extent of interest of the judgment-debtor, the character of the tenancy and the nature of the land, *e g*, whether it is a tenure or under-tenure (permanent or otherwise), or *taluk*, or estate, or an occupancy holding, or non-occupancy holding, or a holding at fixed rates, or under-raiyati holding, or homestead land, etc., etc. Where the lands are situate within an area for which a record-of-rights has been finally published, it shall further contain a statement of the serial number or numbers borne by the tenancy in the record-of-rights and of the area and rental according to such record. Where the attachment is of a revenue-paying or revenue-free estate, tenure or holding, or of any share in such lands, the application shall comply with the requirement of rule 216 *post*

Note.—Courts should insist on strict compliance with the requirements of this rule, so that on a sale of the land it may be easily ascertained whether landlord's transfer-fee, etc, are recoverable under the law before confirmation of the sale. The particulars should be carefully checked in the office and when there is non-compliance execution petitions are liable to be rejected or returned

214. Every application for an order for sale of immovable property (other than a tenure or holding to be sold under the provisions of sec 65 of the B T Act, 1885), shall, in addition to the verification and the particulars required by Or 21, r. 66 (3) state everything known or believed by the person verifying the same to exist which relates to the nature, or affects the value, of the property to be sold, and shall further state that he is not possessed of any further information regarding it.

215. Every application under sec. 162 of the B. T. Act, 1885, for a combined order of attachment and sale of a tenure or of a holding

221. When any property is taken back from a custodian, he shall be given a receipt for the same.

222. The officer deputed to attach movable property shall be furnished with a certificate endorsed on the writ stating the period for which the fees and charges required under rule 680 (2), Art. 3 of the Court-fee rules have been paid.

223. When the property seized under Or. 21, rr. 43 to 45 is in the opinion of the attaching officer of a value not exceeding twenty rupees, he shall inform the judgment-debtor or in his absence any adult male member of his family that it will be sold at once without the issue of any sale proclamation under Or. 21, r. 66. If, however, the decree-holder or the judgment-debtor or any person acting on behalf of either of them in their absence, objects to such a course, the attaching officer shall refer the matter to not less than three respectable adult persons of the locality of whom a member of the local union board or panchayat if then available, should be one and if the decision of the majority be that the value does not exceed twenty rupees, it shall be final and the attaching officer shall forthwith sell the property by auction after giving to intending purchasers such reasonable notice as is possible under the circumstances of the case. If the value determined exceeds twenty rupees, the attaching officer shall deal with it as prescribed under Or. 21-A, C. P. Code, and supplemented by the rules of this Chapter.

224. Whenever attached property is kept in the village or place where it is attached and the judgment-debtor gives his consent in writing to the sale of the property without awaiting the term prescribed in Or. 21, r. 68, the attaching officer shall receive the same and forthwith forward it to the Court for orders with an accurate list of the attached property.

225. When attached property is made over to a custodian under Or. 21-A, rr. 3 (a) and 5 and such person enters into a bond as provided therein, it shall be brought by the attaching officer and form part of the record.

Note.—The bond shall be stamped with a court-fee stamp of eight annas in Bengal and in Assam under Art. 6, Sch. II of the Court Fees Act. If the stamp is not available locally, the attaching officer shall realise the required value of the stamp in cash and make it over to the Nazir with the bond as soon as he returns to the station and the Nazir will attach to the bond the necessary court-fee stamp.

226. The attaching officer shall be provided with a separate receipt book of the kind prescribed by rule 202 of this Chapter and a receipt shall be given by him for all sums paid to him under these rules. The amount realised must immediately on return to the headquarters be paid into Court and dealt with in the manner laid down in the Account Rules.

227. If necessary costs are paid by the decree-holder to the attaching officer and the attached property is removed to the court-house under Or. 21-A, r. 4, C P Code, the attaching officer shall file in Court a memorandum of the expenses attending the removal supported by vouchers. Any surplus left in his hands shall be paid into Court.

228. The Nazir will from time to time inspect livestock brought to Court under r. 5 of Or. 21-A, and satisfy himself that the animals are being properly fed and cared for and report to the Court if they are ill or undernourished.

(3) Sale dates of outlying Courts should be fixed on the same principle and where there is more than one Court in the same station, sale dates of all the Courts should not ordinarily be fixed for the same day.

Note.—Sales must start punctually at 12 noon (7-30 a m , in the case of morning sitting) and every endeavour should be made to complete the sales on the dates fixed in the sale proclamations. Prospective purchasers cannot be expected to attend Courts from day to day and take their chance not knowing when a sale will actually take place. Judicial sales being an important function of the Courts it is very desirable that presiding Judges should from time to time have the sales conducted in the Court room in their immediate presence. Only in this way can the reputation of Courts and purity in the conduct of sales be assured. A sale in execution is a sale by the Court and “it has been laid down again and again that in sales under the direction of the Court it is incumbent on the Court to be scrupulous in the extreme and very careful to see that no taint or touch of fraud or deceit or misrepresentation is found in the conduct of its ministers” (*Per Lord Macnaghten, in Kala Mu v Harpernik*, 1. L R 36 Cal 323, p. 334, P. C.).

233. All property, except property of the nature specified in the proviso to Or. 21, r. 43, or rule 241 of this Chapter, to be sold at each place of sale, shall be entered in lists for each place, in the prescribed Form No. (M) 4, the list of movable and immovable properties being distinct. The lists shall be so prepared as to contain in regular order each item of property to be sold in execution of the decrees of each Court severally and shall as far as possible be arranged in the order in which they are likely to be taken up. Such lists, signed by the presiding Judge shall be stuck up in the Courts where the sales are to be held, in the case of movables not less than 7 days, and in the case of immovables, not less than 15 days, before the date fixed for the commencement of each set of sales.

234. At the stated hour, which shall be 12 noon (or 7-30 a m in the case of morning sitting), upon each fixed date, the sales shall be commenced, and shall be carried on in the order stated in the lists abovementioned, unless otherwise directed by the Court. No sale shall continue after sunset; but the sales shall be held from day to day and throughout the day, except when the Court is closed, and until the lists are finished: provided that this rule shall not interfere with the adjournment of any particular sale according to law, (Or. 21, r. 69).

Note.—The officer conducting a sale within the precincts of a court-house has no power to adjourn a sale (Or 21, r 69), and in the event of the sales fixed for the day not being completed on that day for want of time or any other reason, the order of the Court concerned must be taken in each case and recorded in the order sheet of each execution case postponing the sale till the next day or to any other specific day and hour as may be directed by the Court.

235. When the judgment debtor waives a fresh sale proclamation [Or. 21, r. 69(2)], the Court may, if it so desires, and if circumstances justify it, adjourn the sale to a date within the month, longer than seven days.

236. The same days shall not ordinarily be fixed for the sale of both movable and immovable property.

237. Except as regards property of the kind mentioned in rule 241, sales in execution of decrees of any Court shall be conducted in that Court by the Nazir or other officer of the Court, or by such other person as the Court may appoint in this behalf, in the immediate presence of the presiding Judge. Where this is not possible sales may be held in

242. If it appears to the Court that immediate sale of movable property in the custody of the Nazir is necessary, *e.g.*, by reason of its being perishable, it may authorize him to sell the same by public auction and may give such directions as to date and place of sale and manner of publishing the same as the circumstances of the particular case demand.

243. The attention of Courts is drawn to the necessity of complying with the requirements of sec. 26E, B T Act, before a sale of an occupancy holding or share thereof is confirmed. The Courts shall, therefore, as soon after the sale as possible, record an order directing the auction purchaser to bring into Court the amount of fee required and the notices prescribed, within such time as it may allow, which should not be later than the date fixed for confirmation of the sale. The date fixed for making the deposit and filing the requisites should not be extended except for good and sufficient reason.

244. The proceeds of a sale effected in execution of a decree will only be paid out of Court on an application made for that purpose in writing.

245. (1) When a decree-holder applies for leave to purchase under Or. 21, r. 72, no order to set off the purchase money against the amount of the decree shall be made on that application. If a decree-holder-auction-purchaser desires such set off, he shall file a separate application for the purpose at the time of the payment of the poundage fee.

(2) Upon the hearing of such petition, the costs of execution including the poundage fee shall be added to the decree; and in cases in which the amount of the purchase money exceeds the amount of the decree and such costs, the decree-holder auction-purchaser shall pay into Court the sum of 25 per cent on the balance of the purchase money after deducting the amount of the decree and of such costs and shall pay the balance at the expiration of fifteen days in accordance with Or. 21, r. 85, C. P. Code.

246. (1) When a sale of immovable property is set aside under Or. 21, r. 89, or sec. 174(1), B. T. Act, the Court may make an order for payment by the judgment-debtor or by the person at whose instance the sale is set aside, of the poundage fee and other costs, if any, not covered by the proclamation of sale.

(2) When a sale is set aside under Or. 21, r. 90, or sec. 174(3), B. T. Act, the Court may make an order for the payment by the judgment-debtor or by the person at whose instance the sale is set aside, of the poundage fee or other expenses of the sale; provided that there shall be no such order in favour of the decree-holder if it appears that he was privy to any fraud or material irregularity in publishing or conducting the sale.

(3) When the sale is set aside under Or. 21, r. 92, the Court may make an order for payment by the execution creditor of the poundage fee and other costs of the sale.

(4) When a sale is set aside on compromise or when the decree-holder enters full satisfaction in the decree, whether before or after confirmation of sale, the poundage fee and other expenses may be left to be settled between the parties.

(2) The following particulars should be inserted in every case:—

- (a) The “addition” (as defined; section 2 of the Indian Registration Act, 1908), of the person who is declared to be the purchaser;
- (ii) particulars sufficient to identify the property, as required by section 22 (2) of the same Act;
- (iii) the name of each registration sub-district in which any part of the property is situate.

(3) Where necessary the following particulars may be given in a schedule to the sale certificate:—

- (i) Whether the property sold is subject to incumbrances; if so, the exact nature of the incumbrances. This must be in accordance with what is stated in the sale proclamation
- (ii) Area.
- (iii) Boundaries
- (iv) If the property sold is a whole revenue-paying estate, then *tauzi* number on the rolls of the Collectorate.
- (v) If it is a share of a revenue-paying estate, and if separate account has been opened in respect of the same, then the number of the separate account.
- (vi) The amount of revenue payable for the same.
- (vii) If the property sold is a tenure, then the name of the proprietor, and whether the name of the judgment-debtor is recorded in the proprietor's books.
- (viii) If there has been a record-of-rights, then the cadastral survey number of the property sold

Note.—In order that full and necessary particulars of the kind stated in the rule may be incorporated in the sale certificate, the Court should insist on their being furnished in the Schedule attached to the execution petition and in the sale proclamation (*see*, rule 213)

(4) The description given of the property in the certificate of sale must correspond with that given in the sale proclamation prepared under Or. 21, r. 66 of the Code.

252. In the case of sales under secs. 164 and 165 of the B. T. Act, 1885, the certificate of sale should state that the tenure or holding, and not the right, title and interest of the judgment-debtor therein, has been sold.

253. As the law requires the original certificates to be stamped, the Courts shall not forward copies of the certificates to the Registry office until the purchaser has tendered the necessary stamp. On each copy the amount of stamp duty paid on the original certificate under article 18 of Schedule 1 of the Indian Stamp Act, 1899, as amended by the Bengal Stamp (Amendment) Act, 1922, must be noted. Under

over to the process-server, by post or by such other means as appear proper to the Court issuing the warrant

N.B.—In the case of Post and Telegraphs Department, ten days' notice is necessary

Note 1.—For Schedule A (Jail, Post and Telegraphs and Police Departments) and B (Excise, Forest and Miscellaneous Departments) containing the designation of the employees and the official superior to whom the warrant shall be sent for countersignature, see Assam Government Notification No 4392G J, dated the 23rd May, 1933, published in the *Assam Gazette*, dated the 31st *idem*, Part II, pages 625-626

Note 2.—For the schedule containing the designation of employees of the Assam-Bengal Railway (both Assam and Bengal portion), see Bengal Government Notification No 5088—J, dated 13th July, 1933, published in the *Calcutta Gazette*, dated 27th *idem*, Part I, pages 1080-1089

256. Whenever a person who has been arrested under a civil warrant appears to be too ill to be removed from his residence or other place where he may be found after his arrest and before he is brought to Court, the officer who has arrested such a person shall forthwith report the matter to the Court and shall remain with the prisoner and retain him in his custody until the order of the Court is obtained under sec. 59(2), C. P. Code

257. (1) In determining the question whether the maximum period of imprisonment should be six months or six weeks, no account should be taken of interest accruing subsequent to the date of the decree nor of execution costs nor of any amounts already realised. The question depends solely on whether the amount due on the date of the decree (*i.e.*, the amount decreed, including interest up to the date of the decree, and the costs of the suit, if any), is more or less than Rs 50

(2) It is therefore directed that all Civil Courts, when committing judgment-debtors to prison, shall in future, for the information of the jail authorities enter the amount due on the date of the decree and the interest and costs of execution subsequent to decree separately in the warrant (Form No. 14, Appendix E, C. P. Code).

(3) Order 21, r 39 declares that the amount disbursed by a decree-holder for the subsistence of the judgment-debtor shall be deemed to be costs in the suit, and shall, therefore, be recoverable as such, but that the judgment-debtor shall not be detained in jail or arrested on that account. The amount of such allowance cannot therefore be legally included in the warrant for the debtor's detention.

258. When a judgment-debtor is committed to the civil prison in execution of a decree, the Court in fixing the amount of monthly allowance for his subsistence, should take into consideration only the class of the prisoner and not his race or nationality. The following scale has been approved by the High Court as a guide to the discretion of Courts in fixing the amount for the individual case. It is not to be treated as a rigid scale.

3rd Division (Includes persons of the day-labourer class and of similar status and mode of living)	From 6 annas to 8 annas per head per day
2nd Division (Includes persons of the artisan class and of similar status and mode of living)	From 10 annas to 12 annas per head per day
1st Division (Includes persons superior to those of the 2nd Division in status and mode of living).	From Re 1 to Re 1-4 per head per day

for the ends of justice and better conduct of the case, it should write to the District Judge who will then, if considered necessary, move the proper authority for the purpose.

(4) The Court should, after the termination of the criminal case (if any), make a request to the Criminal Court to forward a copy of the judgment with a view to see whether there has been any adverse finding or comment against the conduct of the peon concerned, necessitating the taking of disciplinary action

7. Execution by another Court.

263. (1) The provisions of cl (c) of Or 21, r. 6 should be strictly followed by the Court sending a decree for execution to another Court under sec. 39, C. P. Code

(2) An application for the transmission of a decree to another Court for execution shall be made by a verified execution petition and shall state, in addition to the particulars set out in cl. (a) to (c) inclusive, of Or 21, r 11(2), any facts relied on by the applicant to bring the case within the terms of sec. 39 and Or. 21, rr 4 and 5, and shall specify the Court to which transmission of the decree is sought.

(3) Notice of the application shall be given in all cases in which, under Or. 21, r. 22, notice of an application for execution is required.

264. Decrees sent to the High Court for execution under sec. 39, and certificates communicating the result of execution proceedings to the High Court under sec. 41 of the Code, shall be accompanied by covering letters.

265. When a decree is to be sent for execution to a Court at another station within the same district, it shall be addressed to the Judge in charge of the Nazarat (unless the name of the particular Court is stated in the application for transfer) where there are more Courts than one, and it shall be the duty of that Court to make it over to the Court within the local limits of whose jurisdiction it is to be executed without the necessity of any application in this behalf.

Note.—A decree sent for execution to a Munsif's Court at a station where there is a Central Court* shall be addressed to the Munsif in charge of the Central Court

266. If after a decree has been sent to another Court for execution, the decree-holder does not, within six months from the date of the transfer, apply for execution thereof, the Court to which the decree has been sent shall certify the fact to the Court which passed the decree and shall return the decree to that Court.

Note.—When a decree is executed, the certificate as to the result of execution proceedings required by section 41, C P Code, shall be sent by the transferee Court with promptitude

267. Every Court shall maintain a register in the prescribed Form No (R) 22 showing the decrees transferred to another Court for execution and those received from other Courts. The register shall be in two parts, one for decrees transferred to other Courts and the other for decrees received from other Courts.

*Such Court is at present established at Dacca

CHAPTER 11.

COMMISSIONS.*

1. General.

272. Courts must issue commissions with promptitude and see that they are speedily executed. District Judges should at the time of their periodical inspection satisfy themselves that this is done.

273. (1) Every application for the issue of a commission shall state—

- (a) the grounds thereof and shall unless the Court is otherwise satisfied be supported by an affidavit;
- (b) the value of the suit or subject matter;
- (c) the length of time that the execution of the commission is likely to occupy;
- (d) the estimated expenses;
- (e) the details regarding the locality where the commission is to be executed and its distance from the Court, and
- (f) in the case of commission for local investigation or for inquiry into accounts, mesne profits, etc., the specific points on which the inquiry is desired.

(2) If the application is granted, the Court shall, after consulting the parties or their pleaders, estimate the probable duration of the execution of the commission and fix the amount of commissioner's fees, travelling expenses, etc., and direct payment thereof into Court within a specified time, and the commission shall not issue unless the sum fixed by the Court is paid in full within the time limited therefor: provided that the Court may from time to time direct that any further sum be brought into Court by any party.

(3) When the estimate is exceeded, the Court should enquire into the cause of delay and disallow any charges of the commissioner which it finds unreasonable.

Note.—Commissioners should not be paid by, nor should they accept directly from the parties any money on account of fee, travelling expenses, etc. All such amounts must be paid into Court and commissioners should draw their fee, travelling allowance and other expenses from the Court in the usual way.

274. (1) Before issuing a commission the Court shall—

- (a) call on the party at whose instance the commission is granted to supply copies of the pleadings or abstracts thereof (if by reason of the length of the pleadings the Court permits the filing of abstracts), and issues for the use of the commissioner;

*For expenses of commissions, see rule 705 *et seq.*

In the case of a commission involving prolonged work, the Court may permit the commissioner to withdraw from time to time such sum as may appear necessary and reasonable on account of fee, travelling expenses, etc. All such payments before the completion of the work and the final settlement of the bill shall be subject to the condition that if the commission is found not to have been executed satisfactorily, or if the work turns out to be less than was expected, the commissioner shall refund such sum as may be directed by the Court.

279. Whenever transmission by post is necessary for issue of a commission, whether to a Court or to a pleader, the papers are to be sent and returned by registered post and the cost of so doing should be realised from the parties.

280. Sufficient time should be given to the commissioners to enable them to finish their work by the date fixed and the Courts should insist on the submission of the report within the time fixed for the purpose. A commissioner failing to submit his report by the due date should invariably submit on or before that date an explanation to the Court concerned together with such other application as he may have to make for extension of time. If no explanation is submitted, the Court should call for it.

Note 1.—It will be found most useful under the above circumstances to secure the personal attendance of the commissioner, when this can be done without undue inconvenience.

Note 2.—When an extension of time is applied for, the Court must scrutinise the reasons carefully before allowing it. If it appears that repeated prayers for extension of time are due to dilatoriness, inefficiency or neglect of duty on account of preference being given to other work, the Court will consider the question of ordering the return of the commission for appointment of a fresh commissioner.

Note 3.—If the explanation is found to be unsatisfactory, it should be taken into consideration at the time of settling his bill for the work and the commissioner should be given to understand that he should not expect any more commission unless commissions are executed with promptitude.

281. All instances of dilatoriness and negligent or unsatisfactory work should be noted in the appropriate column of the Register of Commissions [Form No. (R) 34] and commissions should not be given to persons whose work is found to fall below a reasonable standard of efficiency or punctuality. In suitable cases a report should be made to the District Judge for removal of name from the list of commissioners or such action as may be considered proper.

282. In order that District Judges may satisfy themselves that commissions are being fairly distributed and promptly and efficiently executed, a half-yearly statement should be submitted to the District Judge by each subordinate Court showing the particulars required to be entered in the Register of Commissions.

Note 1.—Loose forms of the Register of Commissions [No (R) 34] should be used for the purpose of submitting the statement.

283. Selection of commissioners must in all cases be made by the presiding Judge himself and the order of appointment written by his own hand. Every care should be taken to ensure a fair and equitable distribution of commissions. (*See*, rule 319.)

284. Great care should be taken by the Courts issuing commissions to make the fees as little onerous as possible to the parties in the suit.

289. If the fees received with a commission from a Court, whether within or outside the jurisdiction of the High Court, are insufficient to cover the cost of returning the papers by registered post and also, where the commission is issued by post to a pleader or other commissioner, the cost of transmission by registered post to and from the commissioner, the issuing Court should be asked to remit the additional fee required before the commission is executed.

290. Commissions under Or. 26, r 4 (2), for the examination of witnesses resident beyond the local limits of the Court's jurisdiction should be issued to the Court within whose jurisdiction the witness resides and not to a pleader of that court, unless the parties agree to a commissioner from among the pleaders of the issuing Court

Note.—If a pleader of their own sex is preferred for examining *pardanashin* women witnesses residing within the jurisdiction of Calcutta or 24 Parganas, the fact may be mentioned at the time of sending commissions to the Calcutta Small Cause Court and the Courts at Alipore so that the commission may be assigned to such a pleader, if available [G. L. No 13 of 1934]

291. If the commission is to issue to a pleader or advocate, the commission shall be transmitted together with the fee, to the Court in which the commissioner is practising as a pleader or advocate, and, when such Court is the High Court, to the Registrar (Appellate Side)

292. The Court or officer receiving a commission issued to a pleader or advocate, shall immediately deliver it to him, unless he refuses to act or cannot be found. In such cases, either the writ should be sent back to the Court which issued it, or further instructions should be obtained without delay regarding the appointment of a fresh commissioner or the manner of execution

293. Commissions under sec. 76 of the C. P. Code should not be addressed to the Chief Court of Oudh. They should be addressed either to the nearest local Court, if known, or to the Court of the Deputy Commissioner which, is, in Oudh, the District Court, or in Lucknow, to that of the Civil Judge.

•294. On receipt of a commission issued under Or. 26, r. 4, for the examination of a witness, the commissioner should determine where he will proceed to execute it, *z.e.*, whether (1) at the residence of the witness, or (2) at some convenient locality in the neighbourhood of the court, or (3) if the commissioner be a judicial officer, whether the witness shall attend in the Court or in the premises of the Court of such officer, proper arrangements being made, if necessary, for due privacy. As a rule a person to be examined by commission should attend the commissioner at the particular time and place specified in the notice issued; but discretion should be exercised in the examination of those whose attendance is ordinarily excused, such as women, persons unable to be removed from their houses owing to old age, sickness, or other bodily infirmity, or persons of rank exempted by an order under sec 133, C P Code, from personal attendance in Court. In such cases the commissioner should endeavour to discharge his duty with due regard to the special circumstances and condition of the particular witness. Where the commissioner is a judicial officer, however much he may desire to examine a witness at his or her residence, it may often be absolutely impossible for him to do so without neglecting other and more important public duties but when the commissioner receives remuneration for his services,

B.—Taking of Evidence^{*} in Foreign Countries for British Indian Courts.

298. (1) On principle, the most strictly proper method for the Courts of one country to adopt in order to obtain evidence in another is the method of Letter of Request (Commission rogatoire) addressed to the proper Court in the foreign country

(2) The Code provides for this by sec. 77, Or. 26, r. 5 and Form 8 in Appendix H. It should be noted that to purport to appoint a foreign Court a commissioner is altogether misconceived

Note.—Letters of Request are not to be employed to obtain evidence from the United States of America, which prefer the method of commission to be employed, and will enforce the attendance of witnesses before the commissioner (see rule 307). All other countries receive and execute Letters of Request.

299. (1) While Great Britain has entered into conventions with a number of foreign countries whereby reciprocal facilities are given (*inter alia*) for obtaining evidence, India has not acceded to these conventions and they do not affect British Indian Courts.

(2) Some countries insist upon Letters of Request in all cases: such are Austria, Germany, Belgium, Federated Malay States, Japan, Latvia, Luxemburg, Portugal, Roumania, Russia, Switzerland and the Union of South Africa

(3) Other countries like Great Britain permit foreign tribunals to obtain evidence without having any recourse to the authorities of the country in which the evidence is to be taken, *i e*, by making an order appointing some person in the country in which the evidence is to be taken a commissioner or examiner to take the evidence required. The person so appointed may request individuals to appear before him and give evidence or produce documents but has no compulsory powers

(4) This is believed to be the position in Argentine, Bolivia, Brazil, Bulgaria, Chile, Cuba, Denmark, Ecuador, Estonia, Finland, Greece, Guatemala, Holland, Honduras, Mexico, Nicaragua, Panama, Costa Rica, Uruguay and Venezuela.

(5) Certain other countries are understood to be willing to allow Consular Officers of the foreign country to take evidence but not other persons commissioned: Columbia, France, Salvador, Jugo-Slavia, Norway (in shipping cases only).

(6) In these circumstances the Foreign Office by letter No. T 10925, dated London, the 8th September, 1931, issued a "List of foreign countries in which British Consular Officers may take evidence for use in British courts," observing:—

"In the preparation of this list it has been thought better to leave out of account the possibility which exists in certain countries of obtaining the evidence through private persons designated by British courts to take it. The information available as to the attitude of foreign Governments towards such a procedure is by no means as complete or reliable as that concerning the taking of evidence by British Consular Officers, and it is assumed that the Indian courts would prefer, as a general rule, to designate such officers rather than unofficial persons for such purposes" [See G. L. No 8, dated 4th March, 1932]

(4) It is to be noticed that in Letters of Request it is not proper to fix a day for the return of the evidence. When it is known that neither party proposes to attend at the taking of the evidence, this should be stated in the covering letter forwarding the Letter of Request, as it may avoid delay.

(5) Neither commissions nor Letters of Request should be ordered to issue abroad unless there is sufficient time for the execution to be completed before the hearing of the cause or matter in which the evidence is to be used.

303. Under Or 26, r. 15, the Court should in all cases require a deposit for the expenses of executing the commission or Letter of Request in the foreign country and should see that the sum is paid into Court before issuing the commission or Letter of Request. The amount and the fact that it has been paid should be stated in the letter forwarding the documents for transmission.

304. Ordinarily, the only proper method for the transmission of Letters of Request is by the official diplomatic channel. They are to be sent to the High Court for transmission to Government.

305. (1) Where the party at whose instance the Letters are issued is represented in the foreign country by an agent who can apply to the foreign Court, the Letters may be given to such party for transmission to such agent but as it is difficult for British Indian Courts to make certain that the practice of the foreign Court is to receive Letters of Request so produced before it, this procedure is not advised

(2) In the case of Brazil, however, this method is understood to be obligatory. The party's agent at Rio de Janeiro presents the Letters to the Ministry of Justice

C.—Particular Countries.

306. *England.*—(1) In England there is no objection to the Courts of any other country appointing whomsoever they may choose as an examiner or commissioner to take evidence, but such an appointment carries no compulsory powers.

(2) If the assistance of the English Courts is required, the procedure is under the Foreign Tribunals Evidence Act, 1856, and the rules are to be found in Or. 37, rr. 54-60 of the Rules of the Supreme Court. The Court will appoint an examiner and compel the attendance of witnesses.

(3) (a) In simple cases not involving great expenditure of time or money, (b) where it is not possible for the parties to appoint agents in England, (c) where a Letter of Request has been issued by the foreign Court, (d) transmitted through the diplomatic channel and (e) accompanied by detailed interrogatories or explanations of the points to be enquired into and the issues in the foreign cause—where these five requirements are *all* complied with, the Court *may* be applied to by the Treasury Solicitor for the necessary orders

(4) But in all ordinary cases the Court must be moved by an agent of one of the parties, in which case a certificate of the foreign country's diplomatic representative will suffice in lieu of a Letter of Request, or the Letter of Request may be produced by the party's agent without being sent through the diplomatic channel.

be called to make their depositions at His Majesty's Consulate-General without the necessity of issuing subpoenas. Fees for the service are usually levied on the scale appearing in the Annual Practice (White Book). The Letter of Request addressed to the International Court at Bangkok and the alternative Letter of Request have to be forwarded through the High Court and the Local Government to the Government of India

(3) The first method is, however, essential when for special reasons the record of a formally constituted Court is desired, or when the issue of summons to, or service of documents on, persons who are not British subjects is involved, as such summonses and documents can legally be served only through the medium of the Siamese courts. It should be borne in mind that the court language being Siamese, in ordinary circumstances the courts there only receive Requests in the Siamese language. It is therefore advisable that the Letter and interrogatories should be accompanied by a translation in Siamese although at present there are English Advisers in some of the Siamese courts

310. Persia.—(1) Letters of Request issued by Courts in India for execution in Persia are to be transmitted through the High Court and Local Government to the Government of India who will pass them on to the British Legation at Teheran.

(2) In this case also the reference to His Majesty's Secretary of State should be substituted by a reference to the Ambassador in Form 8 of Appendix H, C. P. Code.

Note.—Letters of request should formally be addressed to the Imperial Persian Ministry of Justice and forwarded to the Government of India along with the necessary list of interrogatories for transmission to His Majesty's Minister, Teheran.

311. Commissions to Hyderabad—The procedure laid down in the following Circular, issued by the Resident at Hyderabad, shall be adopted in sending commissions for the examination of witnesses at Hyderabad and Secunderabad:—

With a view to secure uniformity of practice in respect of commissions issued by civil, criminal, or revenue courts in Berar, for the examination of witness at Hyderabad, the following instructions are issued for information and guidance —

As a rule all such commissions should be addressed to "The First Assistant Resident, or such other officer or officers as he may appoint," and all remittances sent with such commissions should be made payable to "The First Assistant Resident," without giving the name of the gentleman holding the appointment

No commission should ordinarily be addressed to the Resident, nor should any remittance be made payable to him

No commission should be sent direct to His Exalted Highness the Nizam's Minister without the intervention of the Residency Office

Distant dates should be fixed for the return of commissions; and the names of the witnesses to be examined should be given in full, with their correct address. The street or lane where they reside should, so far as is possible, be ascertained and stated

Commissions for examination of witnesses residing at Secunderabad (Hussen Sagar) or at Bolaram (Alwal) should be invariably addressed to the Cantonment Magistrate, Secunderabad, and the Superintendent of Police, Bolaram, respectively, and remittances in such cases should be made payable to the officer to whom the commission is addressed

Remittances intended for the First Assistant Resident should be made payable at Hyderabad, and not at Secunderabad.

the points on which the report of the commissioner is required, and upon which it is to be evidence, and those points ought usually to be excluded which can conveniently, and ought under the law to, be substantiated by the parties by evidence at the trial.

(2) The commissioner's duties should be strictly limited by the order to the points thus defined and he must confine his inquiry to those points and report on them only, without undertaking any other work at the request of the parties. It should be remembered that the Court has no power to delegate to the commissioner the trial and determination of any issue in the case between the parties.

Note 1.—The proceedings should be drawn up under the personal supervision of the presiding Judge and should contain a statement of the commissioner's duties with precision and particularity. When boundaries have to be re-fixed or maps have to be relaid, the description and names of the maps or *chittas* to be used and the particular work to be done in connection therewith should be specifically stated. Clear directions should be given as to the starting point of the inquiry. Commissioners should be instructed that the work of survey shall, where practicable, be connected with such permanent marks as may exist in the vicinity and that the map prepared shall show the permanent marks, the boundary of the disputed land, the boundaries of adjacent lands so far as may be necessary and the position of the settlement, revenue, *thak* and other survey lines if such position can be determined with sufficient accuracy, and such lines are relevant to the dispute.

Note 2.—When fixing the date of return of the commission, due regard should be paid to the nature of the case, the quantity of work to be done and in the case of survey work, to the season of the year and the condition of the property to be surveyed. If on receipt of his commission, a commissioner is of opinion that the time allowed is insufficient, he should at once refer the matter to the Court for orders stating the extra time required and must not postpone his application until the time allotted is about to expire. If the representation appears to be reasonable, additional time may be allowed, the parties being duly informed of the revised date.

Note 3.—When a commission is cancelled or withdrawn by the Court for dilatoriness or unsatisfactory work, or for any improper conduct on the part of a commissioner, or when adverse remarks regarding the commissioner's work or conduct are made in the Court's order or judgment, the fact should be noted in the appropriate column of the Register of Commissions.

315. Except as otherwise provided, no person other than pleaders who have obtained a certificate of proficiency in surveying after passing the Pleders' Survey Examination held by the Pleders' Survey Examination Board at Sibpur and Dacca shall be enrolled in the list of persons qualified to execute survey commissions and all commissions for local investigation which require a knowledge of surveying shall be issued only to such pleaders.

Note 1.—When a commission has to be executed which requires the survey of a large area of many miles, and in which the use of theodolite is essential, it should be issued to a professional surveyor of a high degree of efficiency, such as an officer of the Imperial Survey Department, or a person with similar qualifications.

Note 2.—Hints and instructions for the guidance of commissioners in carrying out a theodolite traverse (with separate detail survey by plain table and chain, etc.) and in making field measurements with chain and compass will be found in a book issued for the purpose.

Note 3.—In the case in which the tracing of boundaries in undulating or hilly country is necessary, or in the case of mines, or in irrigation cases, in which the use of level is necessary or in cases involving the measurement and valuation of house property, or in other intricate cases, the commission should be issued to a thoroughly qualified and experienced professional person holding the required degree in surveying or engineering, or other equally qualified person with special expert knowledge of the local conditions and duties he will be required to perform in connection with the execution of the commission.

Note 4.—Just showing the magnetic declination for the districts in Bengal in every year may be had from the High Court upon application through the proper court.

(c) Pleaders included in Panel II should give an undertaking in writing to pass the survey examination within three years of their enrolment and on failure to do so their names will be liable to be struck off Panel II unless the period is extended by the High Court for special reasons.

(3) As the number in Panel I (a) increases whether by transfer of names from Panel I (b) or from Panel II as the pleaders in that Panel pass the survey examination, or by addition of newly passed survey pleaders, or by the transfer of a survey passed pleader from one place to another, there should be a corresponding reduction of the number in Panel II, provided that in no case should the number in Panel I be allowed to exceed the number fixed for the district without the sanction of the High Court.

317. (1) All applications for the inclusion of name in the lists of survey commissioners should be forwarded by the District Judge to the High Court with his remarks thereon.

(2) The High Court will from time to time issue revised printed lists of persons approved for Panel I and Panel II and the District Judge should with his annual report furnish all particulars that may be necessary for the revision of the lists, viz, the names of newly passed pleaders who have applied for enrolment, the names of pleaders in Panel II who have passed the survey examination, the names of persons in the list who are unfit on account of age or infirmity, or who are too busy to undertake commission work [Note 3 to rule 316(2)], the number of survey commissions issued during the preceding three years, the remuneration allowed to the commissioners, etc, etc. The District Judge should in his annual report also mention the names of commissioners whose work has been found to fall below a reasonable standard of efficiency or punctuality or to be otherwise unsatisfactory [see also rule 914 (16)]

318. Courts issuing commissions should always make a personal selection of the person to be appointed as a commissioner and ordinarily all commission work arising within the jurisdiction of a Court should be given to the commissioner attached to the station where the Court is situated. Pleaders of one station should not ordinarily be employed in commission work outside the jurisdiction of the Courts at the station, nor should the pleader of one executive district be entrusted with commission work in another executive district (See, note 2 to rule 316)

319. (1) Great care should be taken to see that commissions of all kinds are allotted to persons in the list in strictly fair order so as to ensure equitable distribution of work and remuneration. (See, rule 283)

(2) Every commission issued by the Courts at district headquarters or in the outlying stations should be entered forthwith in a common register showing (a) the name of the Court and No of the case, (b) date of issue of commission; (c) nature of work to be done; (d) name of commissioner, (e) date fixed for return with extensions, if any, as they are granted, (f) probable number of days the work may occupy; (g) date of actual return, and (h) the remuneration fixed.

(3) Every Court at a station should before selecting a commissioner call for and consult this common register in order to ensure a fair distribution of work and remuneration among all the commissioners. A commissioner should not have in his hand at one time more than such a number of commissions as can be executed with reasonable promptitude.

325. (1) If in any suit or matter it is necessary to take an account, the order or *interim* decree of the Court shall contain the following directions as far as in the opinion of the Court issuing the commission they are adapted to the requirements of the case:—

- (a) The nature of the account to be taken.
- (b) The date from which and the date to which the account is to be taken.
- (c) The name of the party by whom a statement of account is to be filed.
- (d) The periods within which the statement of account, objection and surcharge are to be filed.
- (e) The date on which the commissioner is to submit his report.
- (f) Any other matter on which the court may think it necessary to give, or the commissioner may desire to obtain, its instructions.

(2) The statement of account shall be in the form of a debtor and creditor account and shall be verified by the accounting party or his agent. The items on each side of the account shall be numbered consecutively and a balance shall be shown.

(3) The statement of an objection to an account, or to the report of a commissioner, shall specify the items to which objection is taken by reference to their number in the account or report, or the date of the item and page of a particular book of account.

(4) The statement of surcharge shall specify the amount with receipt of which it is sought to charge the accounting party, the date when, the person from whom, and the particular account on which, the same was received by him.

(5) The statement of objection or surcharge shall also state (a) the grounds of each objection and surcharge and (b) the balance, if any, admitted or claimed to be due; and it shall be verified by the affidavit of the party concerned or his agent.

(6) If any party fails to file his statement of account or objection and surcharge, within the period allowed, the commissioner shall report the fact to the Court, and on the application of the defaulting party, the Court may extend the period or direct the commissioner to proceed *ex parte* as regards such party or direct any other party to file a statement of account, or the court may proceed to decide the suit forthwith on the evidence before it. Evidence shall not be admitted with respect to an objection or surcharge not included in a statement of objection or surcharge.

(7) If the commissioner is unable to submit his report within the time fixed by the Court he shall apply to the Court for an extension of the time giving reasons thereof and the court may extend the time or cancel the commission and appoint a new commissioner.

(8) When the case before him is ready for hearing, the commissioner shall, after reading the statements filed before him and after examining the parties, if necessary, ascertain the points on which the parties are at issue and require them to produce their documentary or oral evidence on such points.

CHAPTER 12.

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

329. (1) All suits in Civil Courts, for the prosecution or defence of which persons in the service of Government, officers in the army, or soldiers have obtained leave of absence, shall be disposed of by such Courts as soon as they are ripe for hearing, irrespective of the order in which they may stand in the register and as speedily as may be consistent with the due administration of justice.

(2) This claim to priority of hearing in civil suits extends to Native Army Reserves.

330. In every case in which the Government Pleader appears for the Government, whether for the Government as a party on its own account, or for the Government as undertaking, under the provisions of Or. 27, r. 8, the defence of a suit against an officer of the Government, he shall, in lieu of a *vakalatnama*, file a memorandum on unstamped paper signed by him, and stating on whose behalf he appears. Such memorandum shall be, as nearly as may be, in the terms of following form:—

Title and particulars of the suit.

I, A, B, Government Pleader, appear on behalf of the Secretary of State for India in Council, (or the Government of Bengal, or as the case may be), Respondent (or, etc.,) in the suit or, on behalf of the Government which, under Or. 27, r. 8, has undertaken the defence of the suit, Respondent (or, etc.,) in the suit

Note.—In every case in which the Government Pleader shall appear on behalf of any officer or servant of the Government, other than cases in which the Government has, under Or. 27, r. 8, undertaken the defence of the suit, such pleader shall file a *vakalatnama* in the same manner as any other pleader

331. No civil judicial authority shall pay out money to Government Pleaders or persons acting on behalf of Government in any suit, unless they produce an authority in writing from the Collector or other officer representing Government, directing them to apply to the Court for such money.

CHAPTER 13.

INCIDENTAL PROCEEDINGS.

1. Ex parte Injunctions.

332. (1) It has been noticed that injunctions are freely issued by the subordinate Courts without appreciating fully their consequences. The powers under Or. 39, C. P. Code, to issue injunctions, specially *ex parte* injunctions, should be exercised with the greatest care and discrimination. The issue of an injunction on one-sided allegations without previously giving an opportunity to the party affected of contesting it, is a deviation from the ordinary course of justice and must not be resorted to except in *very exceptional* circumstances on clear proof of imminent and irreparable injury and that by no reasonable diligence could the applicant have avoided the necessity of applying behind the back of the other party. The significance of the word "may" wherever it occurs in Or. 39 should not be overlooked and attention is invited to rule 3 of the Order which directs that notice "shall" be given in all cases unless the emergency is so grave that notice will defeat the object of the injunction.

Note 1.—As to the principles to be observed in dealing with applications for *ex parte* injunction, see further paragraph 31, Civil Suit Instructions Manual, 1935, and also the recommendations in the report of the Civil Justice Committee (Ch 45, pages 521-525) reproduced in Appendix IV of the above book.

(2) Whenever an appellate court hearing an appeal against an interlocutory order granting an injunction (*ex parte* or otherwise) finds a particular Judge careless, or unduly lenient, or forgetful of the other party's interest, he should explain clearly to him the unsatisfactory nature of his work.

Note 2.—A scrutiny of the annual statement (S) 19 will enable the District Judge to see whether *ex parte* injunctions are granted without the exercise of due care and discretion. The District Judge should also at the time of inspection scrutinise in as many cases as possible the materials upon which *ex parte* injunctions are granted and note when a particular Judge is found to grant *ex parte* injunctions freely by breach of the legal principles in Or. 39

2. Arrest or attachment before judgment, withdrawal of suits and compromise or adjustment of suits.

333. In dealing with applications for arrest or attachment before judgment (Or. 38, rr. 1, 5), withdrawal of suits and compromise or adjustment of suits (Or. 23, rr. 1, 3) the courts should be guided by the instructions contained in the Civil Suit Instructions Manual.

Note.—As to arrest or attachment before judgment, see paragraph 30, Civil Suits Instructions Manual, 1935, and as to compromise and withdrawal of suits, see paragraphs 32 and 33, *ibid*.

CHAPTER 14.

APPEALS AND REMAND.

336. All memoranda of appeal in the subordinate appellate Courts shall be presented in open Court either by the party in person or his "recognized" agent, within the meaning of that term in Or. 3, r. 2, Or. 27, r. 2, and sec. 85, C. P. Code or by a duly appointed pleader.

Note.—Valuations for purposes of jurisdiction and for payment of court-fee shall be separately shown.

337. (1) In every case in which the memorandum is presented by a pleader, the grounds of appeal shall be drawn and signed by a pleader, who, at the foot of the memorandum of appeal, shall subscribe the following statement:—

"I certify that I have examined the record in this case, and that, in my opinion, there are good grounds, as above set forth, for this appeal; and having prepared it, I undertake to appear and support the appeal before the appellate Court."

(2) If an appeal is presented by a party in person, or his "recognised agent" and a pleader is afterwards engaged, he shall before being allowed to appear to support the appeal, subscribe and file a memorandum containing the above certificate, omitting the words "having prepared it."

(3) This rule shall apply *mutatis mutandis* to the memorandum of cross-objection.

338. Memorandum of appeal filed with obviously insufficient court-fee shall on detection of the deficiency after examination be returned with as little delay as possible to the pleader or party filing it (*Jnanada Sundari v. Madhab*, I. L. R. 59 Cal. 388). If it is refiled sufficiently stamped, after the period of limitation has expired, it will then be for the Court to determine whether there is any sufficient cause for the application of sec 5 of the Limitation Act, 1908.

Note.—As to court-fee leviable in appeals against orders rejecting plaints, see G. L. No. 19 dated the 5th September 1933.

339. When an appeal is presented after the expiry of the period of limitation, it should not be admitted without due notice to all parties concerned, so as to secure, at the stage of admission, the final determination of any question of limitation affecting the competency of the appeal.

340. The date for hearing an appeal shall be fixed so as to allow sufficient time to every respondent to give notice of any objection he may intend to take to the decree as required by Or. 41, r. 22 of the C. P. Code.

observance of a strict numerical sequence is designed to prevent the resort to any undesirable selective process of transfer but appeals which, for any reason, require quicker disposal (*e.g.*, cases by or against local bodies, viz., on matters of franchise, election, sanitary or education board, etc.) may be taken out of turn for distribution.

350. Appeals against interlocutory orders which hold up the progress of suits or proceedings in lower Courts, should be given precedence over all civil work other than that of a specially urgent nature and every endeavour should be made to dispose of such appeals quickly. A separate list should be kept of these appeals so that they may not be lost sight of.

Note.—In this connection attention is invited to foot-note No. 2 of the Register showing the cases of which proceedings have been stayed [Form No (S) 9].

351. If, on an inspection of the pending files of each Court, it is found that older appeals are long pending in some Court or Courts, the files of the appellate Courts should be equalised from time to time by withdrawing such appeals and re-transferring them to Courts having a lighter file.

352. As soon as ready appeals are transferred or withdrawn and re-transferred to the different appellate Courts in batches, the District Judge shall notify the transfer in a list stuck up on the notice board, a copy being at the same time sent to the Secretary of the local Bar Association for information to the pleaders concerned. The receiving Courts shall also notify the transfers within two days by posting a list on their notice boards, giving necessary particulars, *e.g.*, the number of the appeals, names of the parties and pleaders and the dates fixed by them for hearing. A copy of the list should also at the same time be sent to the Secretary of the local Bar Association.

Note.—Form No (M) 1 may be used with necessary modifications for the purpose of notifying the transfer of appeals and the dates fixed for hearing.

353. The High Court desire it to be understood that when there is not much pressure of Sessions work it is the duty of a District Judge to do as much civil appellate work as possible. It is only in this way that District Judges can judge the qualifications of their subordinate officers. District Judges, in stations where there are Additional District Judges, should be in a better position to take up more civil appellate work, but all District Judges should note in their annual reports any reasons which have prevented them from complying with these instructions.

Note.—In this connection, *see also* rule 1085

354. The rules above are not intended to fetter in any way the discretion of the District Judge to deal with special or peculiar situations in such a manner as he may consider fit and proper.

Note.—When a District Judge desires to retain all appeals in his file posting a sufficient number of ready appeals on the daily Cause List for distribution among the other appellate Courts whenever they may find time to hear one or more of them, he should apply to the High Court for permission to try or continue the system.

355. The above rules apply *mutatis mutandis* to miscellaneous appeals. Every attempt should be made by all appellate Courts to dispose of such appeals with greater speed. It is highly unsatisfactory that any miscellaneous appeal should remain undisposed of

360. When a suit is remanded for retrial and it again comes up in appeal after the next trial, the number and date of the previous appeal should be quoted in the memorandum of the subsequent appeal.

361. (1) The appellate Court, when returning the record of a case to the lower Court either on remand or under Or. 41, r. 25,, shall draw the attention of the lower Court, in the letter forwarding the record, to any substitution or addition of parties that may have taken place during the pendency of the case in the appellate Court, and the lower Court shall in all cases check the entries and make the necessary alterations in its record and register of suits.

(2) In the case of appeals finally disposed of, all such amendments in the trial Court's records shall be made along with the necessary amendments in the appellate Court's records in the office of the appellate Court concerned. When the copy of the judgment and decree (*vide* Or. 41, r. 37) showing the substitutions and additions of parties is received in the lower Court, that Court shall cause the necessary alterations to be made in the register of suits.

Note.—As to appellate decree, see generally rule 176 *et seq* and in particular rule 178 (§) and note 3 thereto.

APPENDIX I.

NOTIFICATION.

Simla, the 15th May, 1929.

No. 322-I.—In exercise of the powers conferred by the Indian (Foreign Jurisdiction Order in Council, 1902 (hereinafter referred to as the said order) and in supersession of the notifications specified in the Second Schedule hereto annexed and of all notifications amending the same, the Governor-General in Council is pleased to direct—

(1) that a summons issued by any of the Courts specified in the first column of the First Schedule annexed hereto for service within the limits of the jurisdiction of a Court established or continued by the authority of the Governor-General in Council in any territories within the limits for the time being of the said Order shall, if sent to such Court, be served by that Court in the manner provided by the Code of Civil Procedure, 1908 (Act V of 1908), and after being so served, be returned, with such an endorsement under the hand of the Judge of the Court as is mentioned in rule 26 of Order V of the First Schedule of the said Code; and

(2) that a decree of any Court specified in the second column of the First Schedule annexed hereto may, if sent for execution to a court established or continued by the Governor-General in Council in the said territories, be executed by that Court to the same extent and in the same manner as that Court might execute, within the limits of its jurisdiction, a decree made by itself.

First Schedule.

Courts	Courts.
1. Any Civil or Revenue Court in British India.	Any Civil or Revenue Court in British India : Provided that the Court to which the decree is sent for execution has been notified in pursuance of section 45 of the Code of Civil Procedure, 1908 (Act V of 1908).
2. Any Court, established or continued by the authority of the Governor-General in Council, in the territories of any foreign Prince or State within the limits for the time being of the said order.	The Courts specified in the second entry in the first column.
Any Civil or Revenue Court, not established or continued by the Governor-General in Council, in the following States, namely :—	
(a) Baroda	Any Civil Court in the Baroda State.
(b) Gwalior and Khamadhana.	
(c) Hyderabad.	

Courts.	Courts
(g) Any State in political relations with the Government of Bombay— <i>concl'd.</i>	<i>In the Kolihapur Residency—concl'd.</i>
	Court of the Jaghirdar of Vishalgad.
	Court of the Munsif of Vishalgad.
	Court of the 2nd Class Subordinate Judge, Kolhapur.
	Court of the Jaghirdar of Kagal (Senior).
	Court of the Munsif of Kagal (Senior).
	Court of Himat Bahadur, Kolhapur.
	Court of the Munsif of the Himat Bahadur Jaghir.
	Court of the Munsif of Kapshi.
	Court of the Munsif of Sarlashkar Jaghir.
	<i>In the Southern Maratha Country Agency.</i>
	Court of the Nyayadhish of Mudhol.
	Court of the Munsif of Budhgaon Courts of Miraj (Junior).
	Court of the Munsif of Gadgeri. Courts of Miraj (Junior)
	Court of the Munsif of Khandali. Courts of Miraj (Junior).
	<i>In the Belgaum Agency.</i>
	Huzur Court, Savantvadi
	Court of the Minister of Justice and Finance, Savantvadi.
	Court of the Chief Judge, Savantvadi.
	Court of the Nyayadhish of Savantvadi.
	Court of the Munsif of Kudali
	<i>In the Colaba Agency.</i>
	Court of the Sar Nyayadhish of Janjira.
	Court of the Munsif of Janjira.
	Court of the Mamlatdar, Jafraabad (in Kathiawar Agency)
	<i>In the Sholapur Agency.</i>
	Court of the Regent (High Court), Akalkot
	Court of the Sar Nyayadhish (District Court), Akalkot
	Court of the Nyayadhish at Akalkot.
	Court of the Nyayashish at Pilot.
	Court of the Nyayadhish at Kurla.
	<i>In the Surat Agency.</i>
	Court of the Administrator of Sachin.
	Court of the Diwan of Sachin

APPENDIX II.

NOTIFICATION.

Simla, the 15th May 1929.

No. 323-I.—In pursuance respectively of section 29 and of clause (b) in rule 26 of Order V in the First Schedule of the Code of Civil Procedure, 1908 (Act V of 1908), and in supersession of the notifications mentioned in the Second Schedule annexed hereto and of all notifications amending the same, the Governor-General in Council is pleased to declare .—

(1) that the provisions of section 29 of the said Code shall apply to the Courts specified in the First Schedule hereto annexed , and

(2) that service by the said Courts of any summons issued by a Court in British India under the said Code shall be deemed to be valid service.

First Schedule.

Agency.	State or Estate-	Court
<i>In States in direct relations with the Government of India.</i>		
1. Baroda ..	Baroda ..	All Civil and Revenue Courts of the Baroda State.
2. Central India—		(Civil Courts.)
Indore ..	Indore ..	High Court of Judicature, Indore District Court, Nimar, Mandlesar. 1st Grade Munsif's Court, Mandlesar. District Court, Rampura Bhanpura, Garote. 1st Grade, Munsif's Court, Garote. District Court, Mahdipur. District Court, Nimawar, Kannod. District Court, Indore. Nazim Adalat Court, Indore. 1st Grade Munsif's Court, Khargone. 1st Grade Munsif's Court, Manasa.
		(Revenue Courts.)
		All Revenue Courts in the Indore State.
		(Civil and Revenue Courts.)
Bandelkhand	Datia ..	Darbar Court, Datia
	Panna ..	Darbar Court, Panna.
	Charkhari ..	Darbar Court, Charkhari
	Ajaigarh ..	Darbar Court of Ajaigarh.
	Bijawar ..	Darbar Court, Bijawar.
	Chhatarpur ..	Darbar Court, Chhatarpur.
	Baoni ..	Darbar Court, Kadaura.

Agency.	State or Estate.	Court.
2. Central India—concl'd.	Rewa ..	(<i>Revenue Courts.</i>) Court of the Revenue Commissioner, Rewa. Deputy Revenue Commissioner, Rewa. Tahsildar, Hazoor Tahsil, Rewa. Tahsildar, Raghurajnagar, Satna. Tahsildar, Teonthar, Teonthar. Tahsildar, Sirmour, Sirmour. Tahsildar, Mauganj, Mauganj. District and Sessions Judge, and Deputy Revenue Commissioner, East Rewa, Baghaun. Tahsildar, Gopad Banas, Sidhi. Tahsildar, Beohari, Beohari. Tahsildar, Deosar, Deosar. District and Sessions Judge, and Deputy Revenue Commissioner, South Rewa, Umaria. Tahsildar, Sire Bandhogarh, Umaria. Tahsildar, Sohagpur, Sohagpur.
	Baraundha ..	Court of the Dewan, Baraundha.
	Mahar ..	Court of the Dewan, Mahar.
	Sohawal ..	Court of the Dewan, Sohawal.
	Nagod ..	Court of the Dewan, Nagod.
		(<i>Civil Courts</i>)
	Dhar ..	District Magistrate's Court, Dhar.
	Barwani ..	Chief Judge's Court, Barwani
	Jhabua ..	Nazim's Court, Jhabua
	Ali Rajpur ..	Munsif's Court, Ali Rajpur.
<i>Southern States and Mahwa.</i>	Jobat ..	Court of the Kamdar, Jobat.
	Dewas (Senior Branch).	Civil Judge's Court, Dewas.
	Dewas (Junior Branch)	District Court, Dewas.
	Jaora ..	Chief Judge's Court, Jaora.
	Ratlam ..	Judges Court, Ratlam
	Sitamau ..	Sar Nyayadhish Court, Sitamau.
	Sailana ..	Court of the Sar Nyayadhish of Sailana.
		(<i>Revenue Courts.</i>)
	Dhar ..	Chief Revenue Officer's Court, Dhar
	Barwani ..	Revenue Officer's Court, Barwani.
	Jhabua ..	Nazim's Court, Jhabua
	Ali Rajpur ..	Munsif's Court, Ali Rajpur.
	Jobat ..	Court of the Kamdar, Jobat
	Dewas (Senior Branch)	Civil Judge's Court, Dewas.
	Dewas (Junior Branch)	District Court, Dewas
	Jaora ..	Chief Court of the Suba of Jaora
	Ratlam ..	Judge's Court, Ratlam
	Sitamau ..	Sar Nyayadhish Court, Sitamau
	Sailana ..	Court of the Sar Nyayadhish of Sailana.

Agency.	State or Estate.	Court.
3. Gwalior— <i>contd.</i>	Gwalior— <i>contd.</i>	<p>(Civil Courts)—<i>concl'd.</i></p> <p><i>District Ujjain.</i></p> <p>Prant Court, Malwa (Ujjain). Sub-Judge's Court, Ujjain. District Court, Ujjain. Pargana Court, Ujjain. Pargana Court, Khachrod. Pargana Court, Barnagar. Pargana Court, Sonkatch</p> <p><i>District Shajapur.</i></p> <p>District Court, Shajapur. Pargana Court, Shajapur. Sub Judge's Court, Agar. Sub-Judge's Court, Susner. Sub-Judge's Court, Shujapur.</p> <p><i>District Mandsaur.</i></p> <p>District Court, Mandsaur. Sub Judge's Court, Neemuch. Pargana Court, Nandsaur Pargana Court, Suvasara. Pargana Court, Jawad Pargana Court, Gangapur. Pargana Court, Singoli</p> <p><i>District Amjhera.</i></p> <p>District Court, Amjhera (Sardarpur). Pargana Court, Bakaner (Manawar).</p> <p>(Revenue Courts.)</p> <p><i>District Gird, Gwalior.</i></p> <p>Revenue Appeal Bench, Gwalior. Suba, District Gird, Gwalior. Tahsildar, Gird, Gwalior Tahsildar, Pichore (Gird) Tahsildar, Mastura, Ghatigaon. Tahsildar, Bhander.</p> <p><i>District Bhind.</i></p> <p>Suba, District Bhind, Bhind. Tahsildar, Bhind Naib-Tahsildar, Tappa Ater Tahsildar, Mehgaon Tahsildar, Gohad Tahsildar, Lahar.</p> <p><i>District Tawarghar (Morena).</i></p> <p>Suba, District Tawarghar (Morena). Tahsildar, Nurabad, Morena Tahsildar, Jora, Jora-Alapur Tahsildar, Ambah. Tahsildar, Sabalgarh.</p>

Agency.	State or Estate	Court.
		(Revenue Courts)— <i>contd.</i>
		<i>District Mandsaur.</i>
3. Gwalior— <i>concl'd.</i>	Gwalior— <i>concl'd</i>	Suba, District Mandsaur Tahsildar, Mandsaur Tahsildar, Suvasara Tahsildar, Neemuch Tahsildar, Jawad Naib-Tahsildar, Tappa Gangapur. Naib-Tahsildar, Tappa Bhensoda. Naib-Tahsildar, Tappa Singoli
		<i>District Amjhera (Sardarpur).</i>
		Suba, District Amjhera, Sardarpur. Tahsildar, Bakaner, Manawar. Naib-Tahsildar, Tappa Bagh.
4. Hyderabad	Hyderabad .	All Civil and Revenue Courts *
5. Kashmir	Kashmir ..	All Civil and Revenue Courts.
6. Madras State.	Travancore ..	High Court of Travancore District Court, Nagercoil District Court, Trivandrum District Court, Quilon. District Court, Alleppey District Court, Kottayam District Court, Parur. Munsif's Court, Nagercoil Munsif's Court, Padmanabhapuram. Munsif's Court, Neyyattinkara Munsif's Court, Trivandrum Munsif's Court, Attingal Munsif's Court, Quilon Munsif's Court, Kottarakara. Munsif's Court, Krishnapuram Munsif's Court, Shencottah. Munsif's Court, Haripur. Munsif's Court, Thiruballa Munsif's Court, Alleppey. Munsif's Court, Shertallay Munsif's Court, Vaikom. Munsif's Court, Kottayam Munsif's Court, Muvattupuzha Munsif's Court, Parur. Munsif's Court, Devicolum Munsif's Court, Thodupuzha Munsif's Court, Changanacherry Munsif's Court, Kanjurapally. Munsif's Court, Kuzhithurai. Munsif's Court, Perumbavur. Munsif's Court, Karunagapally. Munsif's Court, Mavehikara Munsif's Court, Adoor Munsif's Court, Chenganoor Munsif's Court, Meenachil. Munsif's Court, Nedumangad

*Summonses for service in the Hyderabad State shall be forwarded to the City Civil Court and District Civil Courts only

Agency.	State or Estate	Court.
8. Punjab States— <i>concl'd.</i>		(Revenue Courts)— <i>concl'd.</i> <i>District Amghera (Sardarpur)—concl'd.</i>
	Patiala— <i>concl'd.</i>	<p>Tahsildar, Rajpura. Tahsildar, Bhawanigarh. Tahsildar, Sunam Tahsildar, Narwana Tahsildar, Barnala. Tahsildar, Bhatinda. Tahsildar, Mansa. Tahsildar, Sirhind. Tahsildar, Dhuri Tahsildar, Narnaul. Tahsildar, Kandaghat Settlement Collector.</p>
	Bahawalpur ..	<p>Chief Court, Bahawalpur District Judge, Bahawalpur. District Judge, Khanpur (District Rahimyar Khan). District Judge, Minchinabad, District Khairpur. Munsif, Minchinabad. Tahsildar, Minchinabad. Tahsildar, Bahawalnagar. Munsif, Bahawalnagar. Nazim, Bahawalnagar. Tahsildar, Khairpur. Munsif, Khairpur. Special Judicial Officer, Bahawalpur. Munsif, Bahawalpur. Nazim, Bahawalpur. Tahsildar, Bahawalpur Munsif, Ahmadpur East Tahsildar, Ahmadpur East. Munsif, Allahabad Tahsildar, Allahabad. Munsif, Khanpur. Tahsildar, Khanpur. Nazim, Rahimyar Khan Munsif, Rahimyar Khan. Tahsildar, Rahimyar Khan. Munsif, Ahmadpur Lama. Tahsildar, Ahmadpur Lama.</p> <p>(Civil Courts.)</p>
	Jind	<p>High Court Nazim and Sessions Judge, Sangrur. Nazim and Sessions Judge, Jind. Naib-Nazim, Sangrur. Naib-Nazim, Jind Naib-Nazim, Charkhi Dadri. Tahsildar, Sangrur. Tahsildar, Jind. Tahsildar, Charkhi Dadri Tahsildar, Safidan Bench of Honorary Magistrates, Sangrur. Bench of Honorary Magistrates, Dyalpura. Bench of Honorary Magistrates, Charkhi Dadri Bench of Honorary Magistrates, Band Kalan.</p>

Agency.	State or Estate.	Court.
8. Punjab States— <i>contd.</i>		(<i>Revenue Courts</i>)— <i>contd.</i> ¹
	Sirmur	Iyas Khas District and Sessions Judge. Collector and District Magistrate. Magistrate, 1st Class. Tahsildar, Ramka Tahsildar, Pachhad. Tahsildar, Paunta. Tahsildar, Nahan.
	Bilaspur ..	The Council of Administration. The Revenue and Judicial Member. The Magistrate. The Tahsildar, Sadar Bilaspur. The Tahsildar, Ghumarvin.
		(<i>Civil Courts.</i>)
	Maler Kotla	High Court Adalat (District and Sessions Judge's Court). Sub-Judge's Court Munsif's Court.
		(<i>Revenue Courts</i>)
		Collector's Court. Tahsildar, Sadar Court. Tahsildar, Ahmadgarh Court. Tahsildar, Fatehgarh Court.
		(<i>Civil Courts.</i>)
	Faridkot ..	President, Council of Administration. Judicial Member, Council of Administration. Senior Sub-Judge. Junior Sub-Judge.
		(<i>Revenue Courts.</i>)
		President, Council of Administration. Revenue Member, Council of Administration. Tahsildar Naib-Tahsildar, Faridkot. Naib-Tahsildar, Kot Kapura.
	Chamba	Court of H. H. the Raja, Chamba. Court of the Chief Judicial Officer, Chamba. Court of the State Vakil, Dalhousie Court of the Sub-Judge, No 1 Chamba. Court of the Sub-Judge, No. 2 Chamba. Court of the Sub-Judge, No. 3 Chamba. Court of the Sub-Judge, No 4 Chamba.
	Suket	Chief Court District and Sessions Judge's Court. Sub-Judge, Suket State, Sundarnagar. Tahsildar, Balh Sundarnagar

Agency.	State or Estate.	Court.
		(<i>Revenue Courts</i>)—contd.
11. Western India States Agency—contd.	Cutch	Huzur Court. Varisht Jadehja Court. Varisht Khalsa Court. Bhuj Court. Mundvi Court. Mandra Court. Anjar Court. Bhachau Court. Rahpur Court. Nakptrana Court. Abdasa Court. Lakhpat Court. Khayda Court. Khadir Court. Jakhau Court. Madh Court. Court of Small Causes at Bhuj. Court of Small Causes at Mandvi. Court of Small Causes at Mundra. Court of Small Causes at Anjar. Court of Small Causes at Bhachau. Court of Small Causes at Rahpur.
	Dhrangadhra	Huzur Judicial Court, Dhrangadhra. Sar Nyayadhish Court, Dhrangadhra. 1st Class Sub-Judge's Court, Dhrangadhra. 2nd Class Sub-Judge's Court, Dhrangadhra. Nyayadhish Court, Halvad. Nyayadhish Court, Raj-Sitapur.
	Dhrol ..	Nyayadhish Court, Dhrol, Dhrol.
	Gondal ..	Huzur Court, Gondal. Sar Nyayadhish Court, Gondal. Munsif Court, Gondal. Munsif Court, Dhoraji. Munsif Court, Upleta. Diwani Nyayadhish Court, Sarsai.
	Jafrabad ..	Court of Mamlatdar and Sub-Judge, Jafrabad. Court of Madadmis Kamgar of Sub-Judge, Jafrabad.
	Junagadh ..	Huzur Court, Junagadh. Sadar Court, Junagadh. Civil Court, Junagadh. City Magistrate's Court, Junagadh. Nageshri Court, Junagadh. Una Court, Una. Veraval Court, Veraval. Maha Court, Maha. Shil Court, Shil. Kutiyana Court, Kutiyana. Vanthali Court, Vanthali. Bhesan Court, Bhesan. Visvadar Court, Visvadar. Talala Court, Talala. Huzur Court. (Mangrol under Junagadh State.) Nyayadhish Court. (Mangrol under Junagadh State.) The Small Causes Court. (Mangrol under Junagadh State.) District Judge Court. (Mangrol under Junagadh State.)

Agency.	State or Estate	Court.
		(Revenue Courts)—contd.
11. Western India States Agency—contd	Rajkot* .	Huzur Court, Rajkot. Revenue Karbhari's Court, Rajkot. Sar Nyayadhish Court, Rajkot. Nyayadhish Court, Rajkot. 2nd Nyayadhish Court, Rajkot. Sardhar Thana Court, Sardhar Kuvadva Thana Court, Kuvadva.
	Wadhwan ..	Sar Nyayadhish Court, Wadhwan. Nyayadhish Court, Wadhwan.
	Wankaner ..	Huzur Court, Wankaner, Wankaner. Sar Nyayadhish Court, Wankaner. Nyayadhish Court, Wankaner.
<i>Banas Kantha Agency.</i>	Tharad .	Huzur Court. Sar Nyayadhish Court Morwada Tahsildar's Court Bhorole Talukdar's Court.
	Wao ..	Huzur Court. Court of the Karbhari Court of the Sar Nyayadhish. Court of the Nyayadhish Dhima Talukdar's Court.
	State of Malek Jorawarkhanji of Warahi	Huzur Court. Karbhari's Court Nyayadhish Court
	Deodar ..	Azam Waghela Himat Court Singhji's Court. Azam Khanji's Court.
	Thara ..	Court of the Thara Judicial Kamdar.
	Warahi ..	Malek Muridkhanji's Court.
	Terwada ..	Court of the Terwada Judicial Kamdar.
	Bajana ..	Huzur Office, Bajana. First Class Magistrate's Office, Bajana.
<i>Eastern Kathiawar Agency.</i>	Chuda ..	Huzur Court, Chuda. Nyayadhish Court, Chuda.
	Lakhtar ..	Judicial Karbhari's Court, Lakhtar. Nyayadhish Court, Lakhtar. Nyayadhish Court, Than.
	Lathi .	Huzur Court, Lathi Nyayadhish Court, Lathi.
	Mulh ..	Huzur Court, Mulh. Nyayadhish Court, Mulh.
	Patdi ..	Huzur Court, Patdi. Bhayati Court, Patdi. Sar Nyayadhish Court, Patdi. Nyayadhish Court, Patdi.

*All summonses for the courts of this State are to be addressed to the Huzur Courts, Rajkot.

Agency	State or Estate	Court.
12, Government of Bihar and Orissa— <i>conold</i>	Dhenkanal ..	
	Gangpur ..	
	Hindol ..	
	Kalahandi ..	
	Keonjhar ..	
	Khandpara ..	
	Kharsawan .	
	Mayurbhanj ..	
	Narsinghpur ..	
	Nayagarh ..	
	Nilgiri ..	
	Pal Lahera ..	
	Patna ..	
	Ranpur ..	
	Rairakhol ..	
	Serakela ..	
	Sonepur ..	
	Talchar ..	
	Tigma ..	
13. Government of Bombay—		
	<i>Mah Kaniha Agency</i>	
	Idar .	Court of the Sar Nyayadhish.
	Vijayanagar ..	Court of the Rao of Vijayanagar.
	Danta ..	Court of the Maharana of Danta. Court of the Naib-Dewan of Danta. Court of the State Munsif of Danta.
	Malpur .	Court of the Rao of Malpur.
	Mansa .	Court of the Rao of Mansa. Court of the Nyayadhish of Mansa.
	Mohanpur .	Court of the Thakor of Mohanpur.
	Varsoda ..	Court of the Thakor of Varsoda.
	Pethapur ..	Court of the Thakor of Pethapur.

Agency.	State or Estate.	Court.
13. Government of Bombay— <i>contd.</i>		
<i>Rewa Kantha Agency—concl'd.</i>	Lunawada ..	Huzur Court. Court of the Nyayadhish.
	Balasinor ..	Huzur Court. Court of the Nyayadhish.
	Sant ..	Huzur Court Court of the Nyayadhish.
	Jambughoda ..	Court of the Thakor. Court of the Karbhari.
<i>Kolhapur Residency and Southern Mahratta Country States Agency.</i>	Kolhapur ..	Court of His Highness the Maharaja of Kolhapur. Combined Court of the Resident, Kolhapur, and Political Agent, Southern Mahratta Country States, and His Highness the Maharaja of Kolhapur.
		Court of the Chief Judge, Kolhapur. Court of the First Class Subordinate Judge, Kolhapur. Court of the Second Class Subordinate Judge, Sirol Court of the First Class Subordinate Judge, Gad Hinglaj Court of the Second Class Subordinate Judge, Karvir. Court of the Second Class Subordinate Judge, Radhanagari. Court of the Second Class Subordinate Judge, Panhala Court of the Munsif of Katkhol. Court of the Jaghirdar of Kagal (Junior) Court of the Munsif of Kagal ((Junior). Court of the Jaghirdar of Bavda. Court of the Munsif of Bavda. Court of the Jaghirdar of Ichalkaranj Court of the Munsif of Ichalkaranj Court of the Munsif of Ajra. Court of the Jaghirdar of Vishalgad. Court of the Munsif of Vishalgad. Court of the Jaghirdar of Kagal (Senior) Court of the Munsif of Kagal (Senior). Court of the Himat Bahadur Kolhapur. Court of the Munsif of the Himat Bahadur Jaghir. Court of the Munsif of Kapshi. Court of the Munsif of Sarlashkar Jaghir. Court of the District Judge, Kolhapur. Court of the Wahwatdar of the Sub-Saranjan of Mhysal.
	Mudhol ..	Huzur Court Court of the First Class Subordinate Judge. Court of the Second Class Subordinate Judge

Agency.	State or Estate.	Court.
13. Govern- ment of Bombay— concl'd.		
<i>Kolaba Agency.</i>	Janjira ..	Court of the Sar Nyayadhish of Janjira. Court of the Munsif of Janjira. Court of the Madatnis Kamgar (at Jafrabad in Kathiawar) Court of the Mamlatdar (at Jafrabad in Kathia- war)
<i>Nasik Agency</i>	Surgana ..	Court of the Deshmukh
<i>Poona Agency.</i>	Bhor ..	Court of the Diwan
<i>Satara Agency</i>	Aundh ..	Huzur Court, Aundh Court of the District Judge, Aundh. Court of the Subordinate Judge, Aundh. Court of the Subordinate Judge, Kaphi Court of the Subordinate Judge, Atpadi. Court of the Subordinate Judge, Kundal.
	Phaltan ..	Huzur Court. Court of the District Judge Court of the First Class Subordinate Judge.
<i>Sholapur Agency.</i>	Akalkot ..	High Court of the Regent-in-Council, Akalkot. Court of the Sar Nyayadhish of Akalkot. Court of the Nyayadhish of Akalkot Court of the Nyayadhish of Pihoo Court of the Nyayadhish of Kurla.
<i>Sukkur Agency.</i>	Khairpur .	Court of His Highness the Mir of Khairpur. Court of the Wazir of His Highness the Mir of Khairpur Court of the Mukhtyarkhars of Khairpur, Gambat, Mirwah, Nara and the Nazam Adalat. Court of the Head Munshis of Khairpur, Gambat, Mirwah and Nara. Additional District Court, Khairpur Division. Additional District Court, Mirwah Division Court of the Mukhtyarkhar and Subordinate Court, Taluka Faiz Ganj Court of the Special Subordinate Judge, Khairpur, Court of the Resident and Subordinate Magistrate Khairpur Court of the Special Judge and Resident Magistrate, Gambat
<i>Surat Agency</i>	Sachin	Court of the Diwan of Sachin Court of the Judicial Commissioner of Sachin.
	Dharampur	Court of the Diwan Court of the Nyayadhish.
	Bansda .	Court of the Diwan.
<i>Thana Agency.</i>	Jawhar ..	Court of the Sar Nyayadhish. Court of the Nyayadhish.

Agency	State or Estate	Court
15. Government of the United Provinces— <i>conold</i>	Rampur	Court of the Munsif, Tanda.
		Court of the Munsif, Noabadi.
		Court of the Revenue Secretary.
		Court of Nazim
		Court of the Assistant Collector, 1st Class (Settlement Officer).
		Court of the Assistant Collector (Tahsildar, Hazur Tahsil)
		Court of the Assistant Collector (Tahsildar, Shahabad).
		Court of the Assistant Collector (Tahsildar, Milak)
		Court of the Assistant Collector (Tahsildar, Bilaspur).
		Court of the Assistant Collector Tahsildar Suar.)
		Court of the Assistant Collector (Tahsildar, Tanda)
		Court of the Assistant Collector Tahsildar, Noabadi)
	Tehri	All Civil Courts of the Tehri State

Second Schedule.

Notification No 232-I J , dated the 25th November, 1881.

Notification No 1990-I., dated the 20th June, 1895.

Notification No. 752-I.B , dated the 17th March, 1899

Notification No 3095-I.A , dated the 16th August, 1901.

Notification No 4229-I A., dated the 16th November, 1901.

Notification No 2806-I.B., dated the 10th July, 1908.

Notification No 1568-I B., dated the 10th August, 1909.

Notification No 2303-I B , dated the 29th November, 1910

Notification No. 2303-I B , dated the 29th November, 1910.

Notification No 1340-I B , dated the 30th June, 1911

Notification No. 1344-I B , dated the 30th June, 1911.

Notification No. 1345-I B , dated the 30th June, 1911.

Notification No 663-I.B., dated the 15th March, 1912.

APPENDIX III.

NOTIFICATION.

Simla, the 15th August, 1925.

No. F.-576/24J.—In pursuance respectively of section 29 and of Rule 26 (b) of Order V of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), the Governor-General in Council is pleased to declare—

- (i) that the provisions of section 29 of the said Code shall apply to the Courts in Nepal specified in the Schedule hereto annexed and
- (ii) that the service by such Courts in Nepal of any summons issued by a Court in British India under the Code of Civil Procedure, 1908 (Act V of 1908), shall be valid service

2. The Foreign and Political Department Notification No. 327-E. C., dated the 31st January, 1907, is hereby cancelled.

Schedule.

List of Nepalese Courts.

Name of Amini Courts.	Names of British Post Offices on the border nearest to the Amini Courts.
Under the Birganj Goshwara Court—	
Birganj Amini Court of District Parsa ..	Raxaul (District Champaran).
Kalaya Amini Court of District Bara.. ..	Adapur (District Champaran).
* Kadarbana Amini Court of District Rautahat ..	Baragnia (District Muzaffarpur).
Under the Mahotari Sarlahi Goshwara Court—	
Jaleshwar Amini Court of District Mahotari ..	Madhwarpur (District Darbhanga).
Sarlahi Amini Court of District Sarlahi ..	Sonbarsa (District Darbhanga).
Under the Saptari Goshwara Court—	
Hanumannagar Amini Court of District Saptari ..	Kanauli Bazar (District Bhagalpur).
Siraha Amini Court	Janagar (District Darbhanga).
Under the Morang Biratnagar Goshwara Court—	
Biratnagar Amini Court of the Morang Rangehi District	Jogbani (District Purnea).
Under the Morang Jhapa Goshwara Court—	
Jhapa Amini Court of District Jhapa ..	Dighabank (District Purnea).

APPENDIX IV.

List showing rates of process fees (Civil and Criminal) for service of processes within Tripura State,

Divisions				Fees.
				Rs. a.
1	Sadar	..	..	1 0
2.	Bishalgarh	..	..	1 8
3	Sonamura	.	..	1 8
4.	Biloma	..	..	1 8
5	Sabroom	..	.	1 8
6.	Udaipur	.	..	1 8
7.	Kailashahar	..	..	3 0
8	Khowai	..	.	3 0
9	Dharmanagar	..	..	3 0
10.	Kamalpur	..	.	3 0
11	Kalyanpur	.	..	3 0
12.	Amarpur	..	..	1 0

APPENDIX V.

NOTIFICATION.

Simla, the 15th May 1920

No 321-I.—In supersession of the notifications mentioned in the Second Schedule annexed hereto and of all notifications amending the same, the Governor-General in Council is pleased—

(1) in exercise of the powers conferred by section 44 of the Code of Civil Procedure, 1908 (Act V of 1908), to declare that the decrees of the Courts specified in the second column of the First Schedule hereto annexed, being Courts of the States respectively mentioned in the first column of the said schedule and not established or continued by the authority of the Governor-General in Council, may be executed in British India as if they had been passed by the Courts of British India; and

(2) to notify for general information that the States mentioned in the first column of the First Schedule have agreed that the decrees passed by Civil Courts in British India may be executed in their respective territories by the Courts specified in the third column of the First Schedule.

First Schedule.

States.	Courts	Courts.
1. Baroda ..	All-Civil Courts	All Civil Courts.
2. Benares ..	The following Civil and Revenue Courts, namely— Chief Court, Ramnagar. District Judge's Court, Gyanpur. Collector's Court, Gyanpur Collector's Court, Chakia. Collector's Court, Ramnagar. Civil Judge's Court, Chakia Civil Judge's Court Ramnagar. Deputy Collector's Court, Gyanpur. Assistant Collector's Court, Tahsil East Gyanpur Assistant Collector's Court, Tahsil West Gyanpur. Assistant Collector's Court Chakia. Assistant Collector's Court, Ramnagar.	The Courts of the Benares State specified in the second column.
3. States and Estates in political relations with the Government of Bombay— <i>In the Mahi Kantha Agency—</i>		
Malpur ..	Court of the Manager of Malpur ..	The Courts of the States and Estates in political relations with the Government of Bombay specified in the second column.
Varsoda ..	Court of the Manager of Varsoda ..	
Ilol ..	Court of the Manager of Ilol ..	
Valasna ..	Court of the Manager of Valasna ..	
Magodi ..	Court of the Sarkari Kamdar, Magodi ..	
Vadagam ..	Court of the Manager of Vadagam ..	
Ramaz ..	Court of the Japtidar of Ramaz ..	

States.	Courts	Courts.
<p>3. States and Estates in political relations with the Government of Bombay—<i>contd</i> <i>In the Kolhapur Agency—</i></p> <p>Kolhapur .</p>	<p>Court of His Highness the Maharaja of Kolhapur Combined Court of the Resident, Kolhapur and Political Agent, Southern Maratha Country States, and His Highness the Maharaja of Kolhapur. Court of the Chief Judge, Kolhapur Court of the First Class Subordinate Judge, Kolhapur Court of the Second Class Subordinate Judge, Shirol Court of the First Class Subordinate Judge, Gadhinglaj Court of the Munsiff of Katkol. Court of the Jaghirdar of Kagal (Junior) Court of the Munsiff of Kagal (Junior) Court of the Jaghirdar of Bavda. Court of the Munsiff of Bavda. Court of the Jaghirdar of Ichalkaranji. Court of the Munsiff of Ichalkaranji Court of the Munsiff of Ajra Court of the Jaghirdar of Vishalgad. Court of the Munsiff of Vishalgad. Court of the Second Class Subordinate Judge, Kolhapur Court of the Jaghirdar of Kagal (Senior). Court of the Munsiff of Kagal (Senior). Court of the Himat Bahadur Kolhapur Court of the Munsiff of the Himat Bahadur Jaghir Court of the Munsiff of Kapshi. Court of the Munsiff of Sarlashkar Jaghir.</p>	
<p><i>In the Southern Maratha Country Agency—</i></p> <p>Sangli ..</p>	<p>Huzur Court of Sangli Nyayadhish Court of Sangli Subordinate Judge's Court, Central Division (Miraj Prant Taluka, including Sangli and the Terdal Taluka) Subordinate Judge's Court, Southern Division (including the Talukas of Shahapur and Shirhatti). Subordinate Judge's Court, Northern Division (including the Talukas of Kuchi and Mangal Wedhe)</p>	
<p>Miraj (Senior)</p>	<p>Court of the Chief of Miraj (Senior). Court of the Nyayadhish of Miraj (Senior). Court of the Munsiff of Laxmeswar Court of the Munsiff of Modnimb</p>	

States.	Courts.	Courts.
<p>3. State and Estates in political relations with the Government of Bombay—<i>concl'd.</i></p> <p><i>In the Surat Agency—</i></p> <p>Sachin</p>	<p>Court of the Political Agent, Surat</p> <p>Court of the Assistant Political Agent for the Dangs.</p> <p>Huzur Court</p> <p>The Judicial Commissioner's Court</p> <p>Judicial Officer's Court</p>	
4. Cooh Behar	All Civil and Revenue Courts	All Civil Courts.
5. Kashmir	<p>Court of His Highness the Maharaja</p> <p>Court of the Judge, High Court</p> <p>Court of the District and Sessions Judge, Jammu and Kashmir.</p> <p>Court of the Sub-Judges, Jammu, Mirpur, Kothl Udhampur, Srinagar and Muzafferabad</p> <p>Court of the Judge, Small Cause Court, Srinagar</p> <p>Courts of the Wazir Wazarats, Leh and Gilgit.</p> <p>Courts of the City Munsiffs, Srinagar, Anantnag, Shopayan, Baramulla, Jammu, Srinambursinghpura, Samba, Kanthua, Rajori, Ramnagar, Raisi Doda Kishtwar, Mirpur and and Bhimber</p>	The Courts of the Kashmir State specified in the second column.
6. Madras States—		
<p><i>Cochin</i></p>	<p>Chief Court of the State of Cochin</p> <p>District Courts and the Courts of Munsiffs of the State of Cochin.</p> <p>Provided that when the decree sent to a Court in British India for execution is a decree of the Court of a Munsiff, the documents mentioned in Or 21, r. 6 of the Code of Civil Procedure, 1908 (Act V of 1908), bear the countersignature of the Judge of the District Court to which the Court of the Munsiff is subordinate</p>	All Civil Courts of the State of Cochin.
<p><i>Pudukkottai</i></p>	<p>Chief Court of the State of Pudukkottai other than decrees of the Registrar of that Court.</p>	All Civil Courts of the State of Pudukkottai.

APPENDIX VI.

Simla, the 9th April, 1913.

No. 786 I.B—The Governor-General in Council is pleased to notify that the Courts specified in the Schedule hereto annexed, which have been established or continued by the Governor-General in Council, have power to serve summonses issued by Courts in British India under the Code of Civil Procedure, 1908 (V of 1908).

The Governor-General in Council is further pleased to declare that the provisions of section 45 of the said Code apply to the said Courts.

The notifications of the Government of India in the Foreign Department Nos. 1361-I., and 1362-I, dated the 29th March, 1889, as subsequently amended, are hereby cancelled.

Schedule.

Agency.	Courts.
Baluchistan	.. All Civil Courts in the territories administered by the Agent to the Governor-General in Baluchistan as such Agent.
Baroda	.. The District Court and the Court of Small Causes in the Cantonment of Baroda. The District Courts and the Subordinate Civil Courts of the sections in the Baroda State of the— Ahmedabad-Parantij Railway, Anand-Godhra Branch and Baroda-Godhra Chord of the Bombay Baroda and Central India Railway, Mehasana-Virangam Railway, Petlad Cambay Railway, Rajputana-Malwa Railway, and Tapti Valley Railway.
Central India	.. The District Courts and the Courts of Small Causes in the Cantonments of Mhow, Nimach and Nowgong, the Indore Residency Bazzars and the Civil Lines of Nowgong The District Court, the Civil Court and the Court of Small Causes in the Cantonment of Sehore The Court of the Assistant to the Resident at Gwalior at Guna. The District Courts and the Courts of Small Causes of the sections in Central India of the— Bhopal-Itarsi Railway, Bhopal-Ujjain Railway, Bina-Guna-Baran Railway, Great Indian Peninsula Railway, Godhra-Ratlam-Nagda Railway, Nagda-Muttra Railway, Nagda-Ujjain Railway, and Rajputana-Malwa Railway.

The notifications of the Government of India in the Foreign Department, Nos. 4049-I.A. and 4050-I.A., dated the 18th September, 1902, are hereby cancelled

Schedule.

Agency.	Courts
Dharwar ..	.. The District Court and the Subordinate Civil Courts of the section of the Madras and Southern Maratha Railway in the Savanur State.
Kaira ..	.. The District Court and the Subordinate Civil Courts of the section of the Petlad-Cambay Railway in the Cambay State
Kathiawar ..	<p>.. The Courts of the Political Agents and of the Deputy Assistant Political Agents in the Gohilwar, Halar, Jhalawar and Sorath Prants.</p> <p>The Court of Small Causes, Rajkot Civil Station.</p> <p>The Courts of the Thanadars of Babra, Bhoika, Chok Chotila, Dasada, Dhrafa, Lakhapadar, Lodhika, Palad, Songadh and Wadhwan Districts.</p> <p>The District Court and the Subordinate Civil Courts of the sections of the Bombay Baroda and Central India Railway in Kathiawar, of the Dhrangadhra Railway, of the Dhoraji-Forbandar section of the Gondal-Forbandar Railway, and of the Jamnagar, Jetalsar-Rajkot and Morvi Railways, respectively</p>
Kolhapur and Southern Maratha Country.	<p>The Court of the Resident in Kolhapur and Political Agent for the Southern Maratha Country States</p> <p>The Court of the Assistant Political Agent in the Southern Maratha Country.</p> <p>The District Courts and the Subordinate Civil Courts of the sections of the Barsi Light Railway, the Great Indian Peninsula Railway, the Kolhapur Railway, the Madras and Southern Maratha Railway and the Sangli Railway, respectively, in Kolhapur and the Southern Maratha Country</p>
Mahi Kantha ..	<p>The Courts of the Political Agent, the Assistant Political Agent, the District Deputy Assistant Political Agent and the Huzur Deputy Assistant Political Agent in the Mahi Kantha</p> <p>The Courts of the Thanadars of the Bavisi Zilla, Gadhwara, Katosan, Sabar Kantha and Vatrak Kantha</p> <p>The District Court and the Subordinate Civil Courts of the sections of the Ahmedabad-Paranthij and the Mehsana Railways, respectively, in the Mahi Kantha.</p>
Palanpur ..	<p>The Courts of the Political Agent, the Assistant Political Agent, the District Deputy Assistant Political Agent and the Huzur Deputy Assistant Political Agent in Palanpur</p> <p>The Courts of the Thanadars of Deodar, Kankrej, Santalpur, Varahi and Wao</p> <p>The District Court and the Subordinate Civil Court of the Palanpur-Deesa Railway and of the section of the Rajputana-Malwa Railway in the Palanpur State.</p>

APPENDIX VII.

Notification, dated 1st August, 1903, published in the "Calcutta Gazette" of 19th idem, page 1158.

The following certificate shows the mode in which copies of judicial records are certified in the State of Cooch Behar.—

I do hereby certify that the different modes in which copies of judicial records of the Cooch Behar Courts are certified as correct copies are as follows:—

A copy of a document being made, the words "certified to be a true copy" are written at the foot of the copy. It bears the seal of the Court, and is signed in full—if not by the presiding officer, then by the officer hereinafter named, viz.:—

At the Sadar.

1. Copies made in the State Council, by the Registrar of the State Council.
2. Copies made in any other Civil or Rent Courts (including Small Cause Court), by the Sarishtadar of the Civil Judge's Court.
3. Copies made in any Revenue Court, other than the State Council and those made in the Court of the Settlement Naib Ahlikar by the Head Clerk and Sarishtadar of the Dewan.
4. Copies made in the State Superintendent's Court, by the Head Clerk and Sarishtadar of Superintendent of the State.
5. Copies made in the Court of the Sessions Judge, by the Sarishtadar of the Sessions Judge.
6. Copies made in any other Criminal Court, by the Head Clerk and Sarishtadar of the Fauzdari Ahlikar.

At Subdivisional Courts

All copies by the Head Clerk and Sarishtadar of the Court.

In every such case the Certifying Officer appends to his signature the words "authorised under section 76, Act I of 1872."

The words

Certified to be a true copy.
Authorised under section 76,
Act I of 1872.

may be impressed by means of a stamp.

True Copy.

A. B.,

Dewan Ahlikar of Cooch Behar.



N.B.—The object of this notification is to obviate the difficulty which might be experienced if under section 86 of the Evidence Act, a certificate was to be required in each case of the manner in which documents are certified in Cooch Behar.

PART II.—Rules Relating to Acts other than the Civil Procedure Code and the Court-Fees Act.

CHAPTER 15.

1. The Landlord and Tenant Procedure Act, 1869 (Bengal Act VIII of 1869)* and the Bengal Tenancy Act, 1885 (VIII of 1885).

362. (1) Every summons in any suit for arrears of rent, not being a suit in which enhancement is sought, brought under the provisions of Bengal Act VIII of 1869 and Act VIII of 1885, shall command the defendant to appear on a date to be fixed by the Court. The Court should so fix the date that the interval after the service of the summons will be not less than fourteen clear days and not more than is reasonably necessary, regard being had to the number of cases for trial.

(2) The suit shall within two days of registration be entered in a List of Causes in the prescribed form No. (M) 1 to be stuck up on the notice board (*see* rule 57), specifying the number assigned to it and the date fixed for final disposal or the appearance of the co-sharer landlord as the case may be.

Note.—When the suit is by a co-sharer landlord under sec 148A of the B. T. Act, 1885, the summons should first be served on the remaining co-sharer landlords calling upon them to join in the suit as co-plaintiffs for their share of the rent (if any) due to them, as required by that section.

363. Each suit shall be called in its turn on the day fixed for hearing, and in every case in which it shall be shown that the defendant has been duly served with the summons in proper time to enable him to appear and defend the suit, but the defendant does not, either in person or by any authorised agent or pleader, appear or make answer to the suit, the case shall be forthwith taken up and heard *ex parte*, unless in any particular case the Court, for special reasons to be recorded in the proceedings, shall think fit to order otherwise:

Provided, nevertheless, that no suit for arrears of rent shall be called on and tried *ex parte* when the summons shall not have been served at least fourteen clear days before the day of hearing.

Note.—*See also* paragraph 7, Civil Suit Instructions Manual, 1935.

364. When it appears that the summons has not been duly served, or that fourteen clear days have not elapsed from the date of the due service of the summons, the case shall be adjourned to a date not less than fourteen clear days from the date of the due service of the summons.

365. Where the defendant appears and makes answer or desires to contest the claim, the case shall ordinarily be placed in the list of defended causes and come on in its turn: provided that if the case appear likely to be a short one, the presiding Judge may take it up and try it immediately or may set it down for hearing on an early day, if either of such courses appear to him to be expedient with reference to the state of his file or the convenience of the parties.

*In force in Assam.

(2) In decrees in suits between landlord and tenant for recovery of rent, the serial number or numbers borne by the tenancy in the record-of-rights and the area and rental according to such record shall be given.

374. Separate decrees under proviso (ii) of section 144 (2), B. T. Act, shall be drawn up on separate sheets of the form for decrees.

Note.—Sub-numbers should be given to the separate decrees thus drawn up in respect of each tenancy.

Landlord's fees, Costs of transmission and Process-fees.

375. Before a sale is confirmed under section 26-E, B. T. Act (as amended by Bengal Act IV of 1928), the auction-purchaser shall supply—

(1) notices in the prescribed forms properly filled in for service on the landlord; separate notices should be prepared for each tenure or holding transferred, unless they are held under the same landlord or same body of co-sharer landlords;

(2) a sheet of paper with the process fee and cost of transmission affixed in court-fee stamp, the particulars of the transfer to which they relate being stated briefly in the body; and

(3) in case of sole landlord, or common agent for all co-sharer landlords, a money-order form properly filled in for the transmission of the transfer fee.

The transfer fee shall also be paid at the same time in cash; fraction of an anna, however small, shall be taken as an anna.

Note.—The rates of landlords' fees and transfer fees payable under the B. T. Act, as amended by Bengal Act IV of 1928, are shown below.—

A. Permanent tenures and mukarari holdings of raiyats—Two per cent. of the annual rent, with minimum of Re. 1 and maximum of Rs 100, payable in cases of sales or gift as well as usufructuary mortgage, but not in cases of leases by the tenant

B. Rent-free permanent tenure or holding—Rs. 2 payable (i) in case of tenure—for sale, gift as well as usufructuary mortgage, but not in case of lease; and (ii) in case of a holding—for sale and gift but not in the case of mortgage.

C. Occupancy holdings of raiyats—(i) In case of sales, 20 per cent. of the consideration money as set forth in the sale deed or where the rent is money rent, an amount equal to five times the rent, if such amount be greater. If the rent be produce rent, the fee will simply be 20 per cent. of the consideration money.

(ii) In case of exchange, 5 per cent. of the value as set forth in the document of exchange or one and a quarter times the rent whichever is greater, to be paid by each party.

(iii) In case of lease to an under-raiyat for a term exceeding 12 years, 20 per cent. of the value of the leasehold or five times the annual rent whichever is greater (sec. 48H).

(iv) In case of bequest, 10 per cent. of the value determined by the Court or two and a half times the annual rent whichever is greater.

(v) In partition and in certain cases of gifts and bequest, *vide* provisos under section 26D of the Act, no transfer fee is payable

376. When there is a sole landlord or a common agent or common manager for all the landlords, one notice form will be sufficient for service, and another for keeping with the record in the Collectorate. Two copies of the notice should therefore be sent to the Collector.

377. When there are co-sharer landlords, but no common agent or common manager, besides one copy for the record, as many copies of the notices as there are co-sharer landlords shall be supplied.

383. The money-order receipts and the treasury chalans arranged in chronological order will be kept in guard files and a register will be kept in the following form :—

Receipt register to be kept by certificate officers and civil courts for realisations under sections 13, 18 (i) (a) (read with section 13) and 26-E, B. T. Act.

Serial No	Case number and year	From whom realised.	Date of realisation.	Amount.			Date of despatch of transfer fee.	Chalan number and date for credit of transfer fee.	Date of despatch of notices and cost of transmission and process fee to Collector.	Date of Collector's receipt for the stamps and papers in column 10.	Remarks.
				Transfer fee.	Cost of transmission (in court-fee stamps).	Process fee in court-fee stamps					
1	2	3	4	5	6	7	8	9	10	11	12

Note 1.—If the transfer fee, costs of transmission, etc., are not filed on the same date, the different dates should be noted either in the column with the amount or in the margin.

Note 2.—The presiding Judge will have this register put up before him from time to time in order to see that fees of the correct amount and other requisites are realised and despatched with promptitude and put his dated signature in the Remarks column in token of inspection

384. A return of deposits received for the quarters ending 31st March, 30th June, 30th September and 31st December, will be submitted by all courts subordinate to the District Judge in the form given below to the District Judge by the 15th of the month following. The District Judge will consolidate them, incorporating the figures of his own court, if any, and forward the consolidated return to the Judicial Department of the Government of Bengal by the 1st of the following month.

Quarterly return of deposits by civil courts.

Total number of deposits received during the period.	Total amount received during the period	Balance of amount outstanding brought forward from last return	Total	Payments during the period	Balance outstanding.

385. For the compilation of the provincial accounts a monthly return of receipts and expenditure will be similarly submitted by all civil courts, subordinate to the District Judge, to him within one week from the close of the month. The District Judge will consolidate the

387. All expenditure incurred in connection with the transmission of landlords' fees and cost of transmission and process fees to the Collector is debitable to the detailed head "Charges for transmission of landlords' fees" under the primary unit "Other contingencies" subordinate to the sub-head of account "Civil and Sessions Courts" under "24—Administration of Justice." Special lump allotments for the purpose will be placed at the disposal of District Judges who will distribute to the courts under them.

388. Any Court receiving deposits of transfer fees from the auction-purchaser will keep them in civil court deposits pending confirmation of the sale and enter them in the register prescribed by rule 383 *ante*.

389. Managers appointed under sections 95 to 99 of the B. T. Act shall be bound by the following rules framed under section 100 of the Act:—

(1) Every manager, appointed under sections 95 to 99 of the B. T. Act, shall in all matters act in accordance with such orders as may, from time to time, be issued by the District Judge.

(2) The manager shall pay the Government revenue, rent, and other demands of the like nature, as also all just liabilities upon the estate, in due and proper time.

(3) No manager is authorised to sell or mortgage any property nor to grant or renew a lease for any period exceeding three years (or such shorter period as the Judge may direct) without the express sanction of the District Judge.

(4) The manager shall apply for the sanction of the District Judge to any act which may involve extraordinary expense. The District Judge may disallow the whole or any portion of the expense incurred by any such act without his sanction and may make the manager liable for the amount.

(5) No manager shall have power to compromise any suit or relinquish any claim without the express sanction of the District Judge.

390. Every Civil Court trying a suit under section 106, or disposing of an appeal in such a suit, shall communicate to the Collector of the district, a note of its final decision in the case for incorporation in the final record-of-rights prepared under the B. T. Act, 1885.

391. In order that the Civil Courts may enforce the provisions of sections 103-B (3), 111, 147-B, 148 (c) and (d) of the B. T. Act, the Government of Bengal have issued instructions (Rule 387 of the Survey and Settlement Manual) to the effect that District Judges should be supplied with information regarding (1) areas notified for survey and settlement, (2) areas of which a record-of-rights has been, or is being prepared, and (3) areas of which a record-of-rights has been finally published. The following is the procedure prescribed so far as the Civil Courts are concerned:—

(i) The Director of Land Records will in November every year forward to the District Judge copies of lists of areas of which a record-of-rights has been or is being prepared, corrected up to 30th September preceding for distribution amongst the courts under him.

(ii) During the following year the Settlement Officer (which term includes the Collector as *ex-officio* Settlement Officer) will send to the District Judge particulars of any areas of which a record-of-rights has been finally published after the preparation of the above lists as soon as such records are finally published.

(iii) Copies of notifications ordering the preparation of a record-of-rights will be forwarded by Government to the District Judge concerned.

3. The Bengal Wills and Intestacy Regulation, 1799 (Bengal Regulation V of 1799).

396. The notice under section 7 of Regulation V of 1799, calling for claimants to the personal property of intestates, should be issued as soon as the property of the intestates is in the custody of the Magistrate, as delay in such matters is not advisable.*

Note 1.—In connection with reporting the death of foreigners and property of foreigners dying intestate (*vide* Bengal Government Circular No 4243-J., of 26th December, 1900, the following is reproduced for general information.—

(i) In a recent case it has been brought to the notice of Government that the provisions of Article XI of the Treaty concluded between Great Britain and the Netherlands, dated the 6th March 1856, are not always known and acted upon by District Judges. I am, therefore, directed to forward a copy of that article for your information, and to request that the provisions thereof may be fully carried out.

(ii) I am at the same time to request that the spirit of that article may be observed in dealing with property belonging to persons of other nationalities who may die intestate within your jurisdiction, so that, where the property is of any intrinsic value or is of such a character that it would be prized by relatives and friends, the Consular representatives may have an opportunity of enquiring whether there are in fact any legal heirs or not, and whether special arrangements should not be made with regard to part of the property.

Extract from the Treaty concluded between the British Government and the Government of the Netherlands [Signed at the Hague, March 6th, 1856; published in the Calcutta Gazette of 23rd July 1856]

ARTICLE XI.

If a subject of either of the two contracting Parties should die in a Colony or Foreign Possession of the other, without leaving any known heirs or testamentary executors, the authorities charged according to the Law of the Colony or Possession with the administration of the succession shall give notice of the death to the Consular Agent of the other contracting Party in order that he may transmit the requisite information to the parties interested.

Note 2.—*Disposal of estates of deceased Nepalese subjects*—With a view to simplify the procedure at present followed in regard to the disposal of the estate of a deceased Nepalese subject, the following instructions should be observed.—

(i) Officers wishing to dispose of the estate of a deceased Nepalese subject, should send to the Resident in Nepal, at one and the same time, a statement indicating the value of the estate in full, together with a list giving the name and place of residence, in detail, of the person nominated by the deceased as heir. In the event of the nominated heir being untraceable or dead, the same particulars should be furnished in regard to any other person, or persons, to whom the estate may be made over.

(ii) On receipt of the above information, the Resident will arrange with the Nepal Durbar to make over the estate to the nominated heir, or, failing him, to the next legal heir. The payee's receipt will then, in due course, be forwarded by the Resident to the officer from whom the request issued, or, in the event of the heir or other authorised payee not being forthcoming, the value of the estate will be returned.

*For form of notice, see Civil Process No (P) 65, Volume II.

of any institution or association who have been declared by the Governor-General in Council to be entitled to be appointed and to act as auditors of Companies throughout British India, or (iii) any legal practitioner who in the opinion of the court is qualified in examining accounts.

(2) In a case where the net annual income exceeds Rupees one hundred but does not exceed Rupees two thousand, the court may appoint either (i) any officer of the Court, or (ii) a legal practitioner who in the opinion of the court is qualified in examining accounts

(3) The amount of remuneration of the officer, or certified auditor or legal practitioner, as the case may be, will not exceed two per cent. where the net annual income is below Rupees two thousand and in cases where the income is above Rupees two thousand the remuneration shall be two per cent. up to Rupees two thousand and one per cent. thereafter and will be payable out of the funds of the ward's estate.

(4) In a case where the estate is a very big one and the accounts are heavy, the court may appoint any certified auditor and fix such remuneration as may be reasonable in the circumstances.

6. The Indian Succession Act, 1925 (XXXIX of 1925), consolidating the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Succession Certificate Act, 1889.

A.—Uncontested Probate and other Proceedings.

401. In uncontested proceedings under the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Succession Certificate Act, 1889 (now the consolidated Indian Succession Act, 1925), it shall be competent to the Court or Judge exercising jurisdiction therein to permit or direct, except when otherwise provided by any law or rule for the time being in force, that any particular fact or facts may be proved, or evidence upon any application may be given by affidavit.

Note.—When a District Delegate, acting under section 288 of the Indian Succession Act, 1925, returns the petition and any documents filed therewith to the person by whom the application was made, he should forward to the District Judge, and not to the Record-room, such other papers in connection with the application as may have been produced before him [For classification of such papers, see Note 1 to clause (d) of rule 441.]

B.—Government Regulations relating to the preservation and inspection of wills under section 294 of the Succession Act (Government of Bengal, Notification No. 6064-J., dated the 18th August, 1933, and Government of Assam, Notification No. 7190G.J., dated the 24th July, 1933).

Custody and Preservation of Wills of which Probate or Letters of Administration with the Will annexed have been granted.

402. All original wills presented to the District Judge or District Delegate, in accordance with the provisions of section 276, shall, immediately upon the passing of the order of granting Probate or Letters of Administration under sections 289 and 290, be entrusted to the care of the head clerk or the chief ministerial officer of the District Judge's or District Delegate's Court, who shall be responsible for their safe custody.

403. The said officer shall, on the receipt of each original will, cause a copy of the same to be carefully entered in a register to be kept for that purpose, and after the copy has been examined by him and found to be a true copy, he shall certify the copy to be a true copy.

405. As soon as possible after the 31st December and not later than the 31st January of every year, each District Delegate shall transmit to the court of the District Judge all the original wills in respect of which a grant of Probate or Letters of Administration have actually been made during the year, together with the register containing the copies thereof and the alphabetical index, and these shall then be preserved along with the wills deposited in the court of the District Judge subject to the same regulations as to custody, inspection, etc.

Inspection of Wills.

406. The District Judge or District Delegate may, upon an application in writing for inspection of the register and of any will mentioned in such register, make an order permitting the inspection of the same: Provided that no such order shall be made unless in such application are set forth the names, residences and occupations of the applicant and of the person or persons, if any, to be present on his behalf at the inspection, and the reason for which an order of inspection is desired.

407. The order for inspection shall state the date on and the hours within which the inspection may be had. No inspection shall be allowed under these regulations otherwise than in the presence of the District Judge or District Delegate or of the chief ministerial officer of his Court or such other officer who may have charge of the will as the District Judge or District Delegate shall direct. The officer present at the inspection shall be responsible for the will not being taken out of sight during the inspection and also that no erasure or alteration or mark is made on it. No person inspecting a will under these regulations shall be permitted during the inspection to have in his possession or have access to a pen and ink, but a person so inspecting may be permitted to make short notes in pencil on a slip of paper to be supplied by the officer present at the inspection.

408. The following fees shall be levied in court-fee stamps for the inspection of wills:—

(i) For the inspection of an original will, court-fee stamp of the value of one rupee.

(ii) For the inspection of a copy of a will in the register, court-fee stamp of the value of eight annas.

C.—High Court Rules relating to the custody and preservation, production and copy of Wills in general.

409. All wills as soon as they are filed in a Court for the purpose of being proved, shall be made over for safe custody, in the presence of the District Judge or District Delegate, either to the head clerk or to the sheristadar of the court, who shall give a receipt for them. The said officer shall, on receipt, copy or cause the wills to be copied in the Register kept for that purpose and entered in the alphabetical index where a note shall subsequently be made showing, as to each will, whether Probate or Letters of Administration with the will annexed have been granted or not, as provided for in rule 403 *ante*.

410. All wills of which Probate or Letters of Administration with the will annexed are not granted shall be preserved in the manner indicated in rule 404 *ante*.

balance being credited to Government. In cases where the collections do not average more than Rs 5 per mensem in one year, District Judges or District Delegates may sanction the payment to such officer of the full amount realised up to Rs. 30.

Note.—(a) The following certificate should be appended to each Bill in which the charges referred to in this rule are drawn —

“Certified that the charges included in this bill have been drawn in accordance with the scale laid down by the High Court, and that each court-fee stamp for which commission is drawn is defaced with the words ‘Commission allowed’ Certified also that the fees drawn on previous bills (with the exception of those deducted above) have been disbursed to the proper person and his receipt taken in the acquittance roll filed in my office”

(b) As there is a separate Budget Allotment for the expenditure, the charges should be drawn on separate bills showing the allotment and expenditure up to date of each drawal (A G B. No T M 163, dated 6th May, 1892, and C. O. No. 16 of 18th August, 1892)

D.—Jurisdiction of Subordinate Judges and Munsifs.

416. (1) Under the provisions of sub-section (1) of section 388 of the Indian Succession Act, 1925, the local Government are pleased to invest the following Courts with the functions of a District Judge under the said Act within the limits of the jurisdiction noted against their names:—

Courts.	Local limits	Notification
<i>Assam Valley Districts</i>		
The Special Subordinate Judge	Ordinary jurisdiction.	G. A. No 3061G J., dated the 25th April, 1927.
The Deputy Commissioners, as Subordinate Judges, of—		
Darrang .	Ditto .	Ditto.
Goalpara ..	Ditto .	Ditto.
Lakhimpur ..	Ditto .	Ditto.
Nowgong ..	Ditto ..	Ditto.
Sibsagar ..	Ditto ..	Ditto.
The Subdivisional Officers (who are <i>ex-officio</i> Munsifs) of—		
Barpeta .	Barpeta munsifi	G. A. No 3767G J., dated the 17th April, 1930
Goalpara .	Goalpara munsifi	Ditto.
Golaghat	Golaghat munsifi	Ditto.
Mangaldai	Mangaldai munsifi	Ditto.
North Lakhimpur .	North Lakhimpur munsifi.	Ditto.
Sibsagar ..	Sibsagar munsifi ..	Ditto.

Courts.	Local limits.	Notification.
<i>Dacca.</i>		
The Senior Subordinate Judge	Sadar munsifi ..	G. B., J. D., No 6244J, dated the 13th July, 1927.
The Senior Munsif of—		
Manikganj ..	Own jurisdiction ..	Ditto.
Munshiganj ..	Ditto ..	Ditto
Narayanganj ..	Ditto ..	Ditto.
<i>Dinajpur.</i>		
The Subordinate Judge (also of Jalpaiguri)	Sadar munsifi of Dinajpur and Jalpaiguri munsifi when sitting at Jalpaiguri.	Ditto.
The Senior Munsif of—		
Balurghat ..	Own jurisdiction ..	G. B., J. D., No. 5795J., dated the 13th July, 1928.
Jalpaiguri ..	Ditto ..	G. B., J. D., No 6244 J., dated the 13th July, 1927.
The Munsif of—		
Raiganj ..	Ditto ..	Ditto
Thakurgaon ..	Ditto ..	Ditto.
<i>Faridpur.</i>		
The Senior Subordinate Judge	Sadar munsifi ..	Ditto.
The Senior Munsif of—		
Goalundo ..	Own jurisdiction ..	Ditto.
Gopalganj ..	Ditto ..	Ditto.
Madaripur ..	Ditto ..	Ditto.
<i>Hooghly.</i>		
The Senior Subordinate Judge	Sadar munsifi ..	Ditto.
The Senior Munsif of—		
Arambagh ..	Own jurisdiction ..	Ditto.
Serampore ..	Ditto ..	Ditto.
Uluberia ..	Ditto ..	Ditto.
<i>Howrah.</i>		
The Senior Subordinate Judge	Howrah munsifi ..	Ditto.

Courts.	Local limits	Notification.
<i>Nadua</i>		
The Subordinate Judge ..	Krishnagar munsifi	G B., J. D., No 6244 J., dated the 13th July, 1927.
The Senior Munsif of— Kushtia ..	Own jurisdiction .	Ditto.
The Munsif of— Chuadanga . .	Ditto .	Ditto.
Meherpur . .	Ditto .	Ditto.
Ranaghat . .	Ditto .	Ditto.
<i>Noakhali</i>		
The Subordinate Judge	Sudharam munsifi	Ditto
The Senior Munsif of Feni ..	Own jurisdiction	Ditto.
<i>Pabna and Bogra</i>		
The Senior Subordinate Judge of Pabna	Pabna munsifi ..	Ditto
The Subordinate Judge of Bogra	Bogra munsifi	Ditto.
The Senior Munsif of Serajganj	Own jurisdiction .	Ditto.
<i>Rajshahi and Malda</i>		
The Subordinate Judge	Rampore-Boalia munsifi, and Malda munsifi, when sitting at Malda	G B., J D., No. 6244J., dated the 13th July, 1927.
The Additional Subordinate Judge.	Malda, while sitting at Malda	G B., J D., No 2784J., dated the 12th March, 1929.
The Munsif of— Naogaon . .	Own jurisdiction ..	G. B., J. D., No 6244J., dated the 13th July, 1927
Nator ..	Ditto .	Ditto
Nawabganj . .	Ditto	Ditto

(2) Under the provisions of section 265 of the Indian Succession Act, 1925, the High Court have appointed *ex officio* as district delegates under that Act within the limits of the jurisdiction noted against their names the following Subordinate Judges and Munsifs.—

Courts.	Local limits.	Notification.
<i>Assam Valley Districts</i>		
The Special Subordinate Judge	District of Kamrup, and Mangaldai subdivision of the district of Darrang	H. C. No. 2369A, dated the 31st January, 1930.
The Deputy Commissioner of Darrang who exercises the powers of a Subordinate Judge.	Own jurisdiction excluding the Mangaldai subdivision.	H. C. No. 2372A, dated the 31st January, 1930.
<i>Bakarganj</i>		
The Senior Subordinate Judge	Barisal munsifi	H. C. No. 8990A, dated the 25th June, 1927.
The Senior Munsif of—		
Bhola	Own jurisdiction	Ditto
Patuakhali	Ditto	Ditto.
Pirojpur	Ditto	Ditto.
<i>Bankura.</i>		
The Subordinate Judge	Sadar munsifi	Ditto
The Senior Munsif of Vishnupur	Own jurisdiction	Ditto.
• <i>Birbhum.</i>		
The Subordinate Judge	Suri munsifi	Ditto.
The Senior Munsif of—		
Bolpur	Bolpur munsifi	H. C. No. 9918A, dated the 22nd May, 1934.
Rampurhat	Own jurisdiction	H. C. No. 8990A, dated the 25th June, 1927.
<i>Burdwan.</i>		
The Subordinate Judge	Sadar munsifi	H. C. No. 8990A, dated the 25th June, 1927.
The Subordinate Judge of Asansol	Asansol munsifi	Ditto.
The Senior Munsif of Katwa	Own jurisdiction	Ditto.
The Munsif of Kalna	Ditto	Ditto.

Courts.	Local limits.	Notification.
<i>Hooghly</i>		
The Senior Subordinate Judge	Sadar munsifi	H C. No. 8990A., dated the 25th June, 1927.
The Senior Munsif of—		
Arambagh	Own jurisdiction	Ditto
Serampore	Ditto	Ditto
Uluberia	Ditto	Ditto
<i>Howrah</i>		
The Senior Subordinate Judge (whether permanent or officiating)	Executive district of Howrah	H C No 14974A, dated the 9th November, 1926
<i>Jessore.</i>		
The Senior Subordinate Judge	Sadar munsifi ..	H C No 8990A, dated the 25th June, 1927.
The Senior Munsif of—		
Bongaon ..	Own jurisdiction .	Ditto.
Jhenidah ..	Ditto .	Ditto.
Magura ..	Ditto	Ditto
Narail ..	Ditto ..	Ditto.
• <i>Khulna.</i>		
The Subordinate Judge	Sadar munsifi .	Ditto.
The Senior Munsif of—		
Bagerhat	Own jurisdiction	Ditto.
Satkhura	Ditto	Ditto.
<i>Madnapore</i>		
The Senior Subordinate Judge	Sadar munsifi ..	Ditto.
The Senior Munsif of—		
Contai	Own jurisdiction	Ditto.
Tamluk .	Ditto ..	Ditto

Courts.	Local limits	Notification
<i>Noakhali</i>		
The Subordinate Judge .	Sudharam munsifi	H C. No. 8990A, dated the 25th June, 1927.
The Senior Munsif of Feni .	Own jurisdiction	Ditto
<i>Pabna and Bogra.</i>		
The Senior Subordinate Judge of Pabna	Pabna munsifi	Ditto
The Subordinate Judge of Bogra	Bogra munsifi	Ditto
The Senior Munsif of Serajganj.	Own jurisdiction	Ditto.
<i>Rajshahi and Malda</i>		
The Subordinate Judge .. ganj	Rampur Boalia munsi, and Malda munsi when sitting at Malda.	Ditto
The Senior Munsif of Malda	Own jurisdiction	Ditto
The Munsif of—		
Naogaon	Ditto ..	Ditto
Nator .	Ditto	Ditto
<i>Rangpur.</i>		
The Subordinate Judge	Sadar munsifi ..	Ditto.
The Senior Munsif of—		
Gaibandha .	Own jurisdiction .	Ditto.
Kurigaon .	Ditto	Ditto
Nilphamari ..	Ditto	Ditto
<i>Sylhet and Cachar</i>		
The Senior Subordinate Judge	Sadar mansifi of	H C. No. 8992A, dated the 29th June, 1927.
The Senior Munsif of—	Sylhet	
Habiganj	Own jurisdiction .	Ditto
Maulvi Bazar .	Ditto	Ditto
The Munsif of—		
Karimganj	Ditto	Ditto
Sunamganj ..	Ditto ..	Ditto

7. The Provincial Insolvency Act, 1920 (Act V of 1920).

417. (1) The following rules may be cited as "The Provincial Insolvency Rules" The forms* prescribed by these rules, with such variations as circumstances may require, shall be used for the matters to which they severally relate

(2) Every insolvency petition shall be entered in the Register of Insolvency Petitions [Form No. (R)3] to be maintained in all Courts exercising Insolvency Jurisdiction, and shall be given a serial number in that Register, and all subsequent proceedings in the same matter shall bear the same number, except proceedings which have to be registered as Miscellaneous Judicial cases under the Note to clause 34 of rule 880

(3) All insolvency proceedings may be inspected at such times, and subject to such restrictions as the court exercising insolvency jurisdiction may prescribe, by the Receiver, the debtor, and any creditor who has proved, or any legal representative on their behalf.

Notices.

(4) Whenever publication of any notice or other matter is required by the Act or by these Rules to be made in an official Gazette, a memorandum referring to and giving the date on which such advertisement appeared, shall be filed with the record and noted in the order-sheet.

(5) Notice of an order fixing the date of the hearing of a petition under section 19 (2) shall be published in the local official Gazette and advertised in such newspapers as the Court may direct. A copy of the notice shall also be forwarded by the court by registered letter to each creditor to the address given in the petition. The same procedure shall be followed in respect of notices of the date for the consideration of a proposal for composition or scheme of arrangement under section 38(1).

(6) Notice of an order of adjudication under section 30 may in addition to the publication in the local official Gazette required by the Act, be published in such newspapers as the Court may direct. When the debtor is a Government servant, a copy of the order shall be sent to the head of the office in which he is employed. The same procedure shall be followed in regard to notices of orders annulling an adjudication under section 37 (2).

Note.—If the insolvent has no assets wherefrom the cost of the publication of the notice of the order made under sec 43 (1) can be met, the court should send the notice with a certificate to that effect to the Superintendent, Government Printing, Bengal, or the Publisher of the *Assam Gazette*, as the case may be, whereupon the notice will be published in the *Calcutta* or *Assam Gazette* free of charge

(7) The notice to be given by the Court under section 50 shall be served on the creditor or his pleader, or shall be sent by the court through the post by registered letter.

(8) The notice to be issued by the Receiver under section 64 before the declaration of a final dividend to the persons whose claims to be creditors have been notified, but not proved, shall be sent through the post by registered letter

*The forms are reproduced as Nos. (J)57-(J)61, (P)75-(P)80 and (M)51-(M)53 in Volume II.

(16) In any case in which a meeting of creditors is necessary and in any case in which the debtor proposes a composition or scheme under section 38, the Receiver shall give 7 days' notice to the debtor and to every creditor of the time and place appointed for such meeting. Such notices shall be served by registered post.

Proof of debts.

(17) A creditor's proofs should be in Form No. (M)51 in Volume II, with such variations as circumstances may require.

(18) In any case in which it shall appear from the debtor's statement that there are numerous claims for wages by workmen and others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor or by some other persons on behalf of all such creditors. Such proof should be in Form No. (M)52 in Volume II.

Procedure where the debtor is a firm.

(19) Where any notice, declaration, petition, or other document requiring attestation is signed by a firm of creditors or debtors in the firm name, the partner signing for the firm shall also add his own signature, *e.g.*, "Brown & Co, by James Green, a partner in the said firm."

(20) Any notice or petition for which personal service is necessary, shall be deemed to be duly served on all the members of a firm if it is served at the principal place of business of the firm within the jurisdiction of the Court, on any one of the partners, or upon any person having at the time of service the control or management of the partnership business there.

(21) The provisions of the last preceding rule shall, so far as the nature of the case will admit, apply in the case of any person carrying on business within the jurisdiction in a name or style other than his own.

(22) Where a firm of debtors file an insolvency petition the same shall contain the names in full of the individual partners, and if such petition is signed in the firm name the petition shall be accompanied by an affidavit made by the partner who signs the petition showing that all the partners concur in the filing of the same.

(23) An adjudication order made against a firm shall operate as if it were an adjudication order made against each of the persons who at the date of the order is a partner in that firm

(24) In cases of partnership the debtors shall submit a schedule of their partnership affairs, and each debtor shall submit a schedule of his separate affairs.

(25) The joint creditors, and each set of separate creditors, may severally accept compositions or schemes of arrangement. So far as circumstances will allow, a proposal accepted by joint creditors may be approved in the prescribed manner, notwithstanding that the proposals or proposal of some or one of the debtors made to their or his separate creditors may not be accepted

Costs

(31) All proceedings under the Act down to and including the making of an order of adjudication shall be at the cost of the party prosecuting the same, but when an order of adjudication has been made, the reasonable costs of the petitioning creditor shall be payable out of the estate.

(32) No costs incurred by a debtor of, or incidental to, an application to approve of a composition or scheme, shall be allowed out of the estate, if the Court refuses to approve the composition or scheme

(33) Where no receiver being appointed the Court itself exercises all the powers of a receiver under sec. 58, an account in the accompanying form should be maintained to show all amounts received and disbursed:—

Debts proved	Date of chalan	No of chalan	Amount received	Disbursements	Initial of Judge	Remarks
			Rs a p	Rs a p		

8. The Indian Stamp Act, 1899 (II of 1899).

418. When a Judicial Officer sees reason to doubt the genuineness of a stamp filed before him, the stamp should be forwarded to the Collector of the district, who will examine it, and satisfy himself, if possible, as to its character, reporting the result to the officer sending it. Care should be taken to retain an examined copy of any document bearing a stamp which may be forwarded to the Collector under the above orders.

419. In all cases in which the Civil Courts find any document which comes before them to have been stamped after its execution in contravention of law, they should give a copy of their judgment to the Government Pleader with a view to the prosecution, if necessary, by the Revenue authorities, of the parties concerned in such after-stamping.

420. In dealing with unstamped or insufficiently stamped instruments executed before the present Stamp Act came into force, the procedure to be adopted and the penalties to be levied should be regulated, not by the old Acts which have been repealed, but by the present Act.

421. The attention of all Courts is drawn to the provisions of section 38, Stamp Act, 1899, which require that when an instrument is impounded and admitted in evidence, an authenticated copy of it, together with a certificate stating the amount of duty and penalty levied, shall be sent to the Collector

Note.—Loose sheets of Form No. (R) 19 should be used when sending the certificate

422. When submitting a reference to the High Court under section 60 of the Stamp Act, the District Judge shall at the same time forward a copy of the same to the Superintendent and Remembrancer of Legal Affairs together with an expression of his opinion as to whether that officer should engage Counsel or Pleader to argue the matter before the High Court.

6 Lunatics of the class mentioned in column 2 of the following table shall be sent from the areas mentioned in column 3 of that table to the Mental Hospitals mentioned opposite thereto in column 1 —

Mental Hospital	Classes of lunatics.	Area from which lunatics are to be sent
(1) Mental Observation Ward, Bhowanipur, Calcutta	All European, Anglo-Indian or Indian lunatics or alleged lunatics detained for observation	European, Anglo-Indian lunatics or alleged lunatics—from any part of the Presidency of Fort William in Bengal; Indian lunatics or alleged lunatics—from Calcutta and from the Sadar subdivisions of the 24-Parganas and Howrah districts
(2) European Mental Hospital, at Kanke, Ranchi, in the province of Bihar and Orissa	All European lunatics	Any part of the Presidency of Fort William in Bengal
(3) Indian Mental Hospital at Kanke, Ranchi, in the province of Bihar and Orissa	All Indian lunatics .	Ditto .

Note.—The Mental Observation Ward, Bhowanipur, shall be used only for purposes of observation

All committing authorities should, in issuing orders for reception of patients in the Bhowanipur Mental Hospital Observation Ward for purposes of observation, follow the instructions contained in the Bengal Government Circular Nos 364-418-Medl., dated the 1st February, 1930, regarding the payment of the cost of maintenance of the lunatic

34 The Magistrate shall make a searching inquiry into the previous history of a person alleged to be a lunatic, with a view to obtain every possible information regarding him, and shall furnish a fresh and complete history of each case, especially with reference to mode of life, state of health, and cause of insanity, all particulars being entered in the descriptive roll in Form C, annexed to these rules.

39. A certificate of fitness to travel must be furnished by the medical officer who certifies the insanity of the patient

40 The Magistrate who despatches a lunatic to an asylum shall make proper arrangements to ensure that the lunatic is provided with suitable food for his consumption during the journey to the Mental Hospital

* 41. (1) The Magistrate shall send the following documents with every lunatic sent to a Mental Hospital:—

(i) Reception order;

(ii) Certificate by Medical Officer in Form 3 in Schedule I to Act IV of 1912,

(iii) Descriptive roll in Form C, annexed to these rules,

(iv) Certificate of fitness to travel.

(2) If any document is not received, or if any defect or omission is discovered in any one of them, it shall at once be notified to the office, by whom the lunatic has been sent with a view to the prompt rectification of the error

Note 1.—Form C referred to above is reproduced as Form No (M) 32 in Volume II

Note 2.—Rules have been framed in identical terms with those reproduced above by the Government of Assam Indian lunatics from any part of Assam are to be sent to the Tezpur Mental Hospital and European and Anglo-Indian lunatics to the European Mental Hospital at Ranchi in the Province of Bihar and Orissa (Assam Government's Notifications No 997-M, dated the 26th April, 1932, and No 4646-G, dated the 19th June, 1918)

Note 3.—The class of patients who are to be sent to the European Mental Hospital at Ranchi is defined in the enclosure to the High Court's General Letter No 2 (Civil and Criminal), dated the 24th January, 1920

(3) Every such application, unless made by the Government Pleader, shall be supported by an affidavit, and every such application, whether made by the Government Pleader or by any other person, shall be accompanied by the certificates of two registered medical practitioners who had reasonable opportunity of seeing and observing the alleged lunatic. Such certificates shall be to the effect that in the opinion of the writers the person in question is insane or incapable of managing himself or his affairs. Such certificates shall also state whether or not, in the opinion of the medical practitioners, service of notice of the proceedings on the alleged lunatic would be ineffectual by reason of his state of mind and whether or not it is undesirable on medical grounds that he should be required to attend for the purpose of being personally examined.

(4) The Court, if satisfied by the affidavit and the medical certificates and by any further evidence which it may deem fit to take and by personal interview with the alleged lunatic, where such interview seems possible and desirable, that an inquisition should be held, shall record an order stating that such inquisition will be held and fixing a time and place therefor.

(5) Thereupon the Court shall issue notice to the alleged lunatic in Form No. (P)82, Volume II.

(6) When the Court is satisfied by the medical certificates filed with the application that personal service on the alleged lunatic would be ineffectual, the Court shall direct substituted service of the said notice by serving the same upon such adult person residing with the alleged lunatic as the Court may select.

(7) Notices in the like form shall be served upon such relatives of the alleged lunatic and on such other person as the Court may direct.

(8) Unless the Court be satisfied by the said medical certificates that it is undesirable on medical grounds to direct the attendance of the alleged lunatic, the Court shall, when recording the order directing inquisition, direct by the said order that the alleged lunatic do attend at such convenient time and place as it may appoint for the purpose of being personally examined, and notice of the said order shall be served upon the alleged lunatic together with notice of the inquisition either personally or by service upon such adult person residing with the alleged lunatic as the Court may select. Such notice shall be in Form No. (P)83, Volume II.

12. The Indian Companies Act, 1913.

427. The rules made by the High Court pursuant to section 246 of the Indian Companies Act, 1913, and published in Part II of the *Gazette of India* of the 15th February, 1930, as Chapter XXXI of the Rules of the High Court, Original Side, 1914, shall be deemed to apply to all District Courts subordinate to the High Court, empowered by the Local Government under sub-section (1) of section 3 to exercise all or any of the jurisdiction conferred by that Act.

Note.—The rules were republished in the *Assam Gazette* of the 19th March, 1930, Part III, pages 509 to 551, the courts of the Judge, Assam Valley Districts, and the District Judge, Sylhet and Cachar, having been empowered by the local Government to exercise the jurisdiction conferred by the Act in respect of companies of which the authorised capital does not exceed Rs 50,000.

(2) Possession under the order of attachment shall be taken by erecting a long bamboo on the land in the presence of some of the chief inhabitants of the neighbouring villages including members of the Union Boards and chaukidars. The order shall also be proclaimed at some place on, or adjacent to, the property by beat of drum or other customary method, and copies of the order shall be affixed at a conspicuous part of the property and at a conspicuous place in the nearest inhabited village. A copy thereof shall also be affixed in a conspicuous part of the office of the Subdivisional Officer or Collector.

II—Management.

(3) Pending a decision of the Court, under sec 6 of the Act, the Collector shall cause to be prepared a list showing the names of all persons claiming to be in cultivating possession, disputed or otherwise, of particular lands within the attached area. If there be no dispute regarding the cultivation of any land, the person in possession shall be left undisturbed to cultivate that land and a temporary settlement made with him pending the Court's decision. If there be such a dispute, the land shall be settled temporarily in such manner as the Collector may direct.

(4) The settlements under sub-rule 3 shall be effected by the simple grant of permission to cultivate the land on condition of the payment of a certain rent, and on condition that the tenancy will terminate on the expiry of such period as may be fixed, not exceeding three years, or, if within such period the Collector cancels his order of attachment under sub-section (3) of section 3 or if, according to an order passed under section 6 of the Act by the Court, he puts any other person in possession, then on the date of such cancellation or of such possession being given.

(5) If the Collector appoints a Receiver for the attached land, the powers, duties and liabilities of such Receiver shall be the same as those of a Receiver appointed under Order 40 in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908).

III—Demarcation, Survey and Preparation of a map.

(6) So far as practicable, the disputed area shall be clearly demarcated by permanent pillars.

(7) A survey of the boundary of the attached area, together, where necessary, with a survey of the internal detail of the area shall be made by means of a theodolite. Such survey shall, where practicable, be connected with such permanent marks as may exist in the vicinity.

(8) (a) The map prepared on the basis of such survey shall show—

- * (a) the boundary of the disputed land,
- (b) internal boundaries where necessary,
- (c) the permanent marks with which the survey was connected, where practicable,
- (d) the boundaries of adjacent lands so far as may be necessary; and
- (e) the position of the revenue, diara or other relevant survey lines if such position can be determined with sufficient accuracy, and such lines are relevant to the dispute.

(11) The map so prepared shall be certified by the Collector to be a map prepared under section 4, sub-section (1) of the Act and be signed by him.

IV—General notice

(9) The general notice inviting claimants to the attached land under section 5, sub-section (2) of the Act, shall be proclaimed at some place on, or adjacent to, the property by beat of drum or other customary method. It shall also be served by affixing a copy of the notice at a conspicuous part of the disputed property and at a conspicuous place in the nearest inhabited village. A copy thereof shall also be affixed in some conspicuous place in the Court-house. The form of the general notice is given in Appendix II.

18. The Calcutta Improvement Act, 1911 (Bengal Act V of 1911).

434. Attention is invited to the provisions of section 82 of the Calcutta Improvement Act, 1911, imposing an additional stamp duty on certain instruments affecting immovable properties situated in the Calcutta Municipality, and to the Rules of the Government of Bengal under section 86 of the Act, published in the *Calcutta Gazette* of the 27th December, 1911, Part IB, page 250.

19. The Indian Divorce Act, 1869 (IV of 1869).

I.—High Court Order under section 17 and General Instructions.

435. The following Order has been made by the High Court under section 17 of the Indian Divorce Act, IV of 1869.—

The time within which a decree of a District Judge may not, under section 17 of the Act be confirmed shall be six months from the pronouncing thereof.

Note.—The reference for confirmation should be made and the record of the divorce case should be sent by the District Judge to the High Court as soon as possible after the decree *nisi* is pronounced.

436. The attention of District Courts is drawn to the fact that in section 2 of the Indian Divorce Act (IV of 1869) the second, third and fourth paragraphs have been repealed and new provisions substituted therefor by Act XXV of 1926 and that by Act XXX of 1927 the words “or respondents” have been inserted after the word “petitioner” in the first clause of the new paragraphs. The result is that—

(a) no relief of any kind can be given under the Act except where the petitioner or respondent professes the Christian religion;

(b) dissolution of marriage cannot be decreed except where the parties to the marriage are domiciled in India at the time when the petition is presented;

(c) decrees of nullity of marriage cannot be granted except where the marriage has been solemnized in India and the petitioner is resident in India at the time of presenting the petition;

(d) no relief other than a decree of dissolution of marriage or of nullity of marriage can be given under the Act except where the petitioner resides in India at the time of presenting the petition.

Note on domicil.—Ordinarily domicil of the parties means the domicil of the husband. Domicil does not mean ‘residence’ or even ‘long residence.’ Nor is it determined by the place in which the husband was born. The question of domicil is to be carefully enquired into on proper legal principles. Unless a proper finding is come to as to domicil upon sufficient evidence, the jurisdiction of the Court is not made out and the High Court will not confirm a decree for dissolution of marriage. Attention is drawn to the cases of *Wright v Wright* (1 L R 58 Cal. 259), *Stroud v Stroud* (1 L R 58, 1332) and *Cresswell v Cresswell* (38 C W N. 255). Much delay and expense have been caused to parties by failure to observe these requirements.

II.—Rules under section 17-A.

437. The following rules have been made by the Governor-General in Council in exercise of the powers conferred by section 17-A of Indian Divorce Act (as amended by Act XV of 1927) —

(1) These rules may be called the Indian Divorce (Domiciled Parties) Intervention Proceeding Rules, 1928

Council is pleased to make the following rules* (Notification No. 228-J., dated the 10th January, 1934):—

(1) The demand under sub-section (1) of section 7 for particulars concerning any loan or loans shall be made by a debtor to a money-lender in Part I of Form No. (M) 56, annexed to these rules

(2) On demand being made in the form prescribed in rule 1, the money-lender shall supply to the debtor the particulars concerning the loan or loans which are mentioned in Part II of Form No. (M) 56 annexed to these rules.

(3) The application under sub-section (1) of section 9 for permission to deposit in the Court any sum of money due from a debtor to the money-lender in respect of any loan or loans shall be in writing and shall contain the following particulars:—

- (a) the name and full address of the money-lender in whose favour the deposit is made;
- (b) a recital that the debtor has sent the money by postal money-order to the money-lender and that the money-lender has refused to accept the same. (The amounts sent on account of principal and interest should be mentioned separately together with the date of the remittance of the same.)

The application shall be signed and verified in the manner provided in sub-rules (2) and (3), of r 15 of Or. 6 in Schedule I to the Code of Civil Procedure, 1908, by the debtor, or by his authorised agent.

(4) The application shall bear a court-fee stamp of twelve annas as required by Article 1(b) of Schedule II of the Court-fees Act, 1870, and shall further be accompanied by printed forms of notice in Form No. (P) 85 annexed to these rules for service on the money-lender with process-fees payable in court-fee stamps according to the scale prescribed by the High Court for service of summons on defendants. The blank spaces in Form No. (P) 85 shall be filled in by the debtor or by his authorised agent.

(5) If it appears to the Court, to which an application for permission to deposit under section 9 is made, that the applicant is entitled under that section to deposit the money, it shall receive the same and give a receipt in Form No. (M) 57 annexed to these rules.

(6) The money-lender may apply for withdrawal of the money in Form No. (A) 3 annexed to these rules, and the procedure in connection with such withdrawal shall be the same as in the case of withdrawal of other civil deposits

*The forms prescribed in the rules are reproduced as Nos (P)85, (M)56, (M)57 and (A)3 Volume II

PART III.—Records.

CHAPTER 16.

THE CLASSIFICATION OF RECORDS OF JUDICIAL PROCEEDINGS.*

439. The records of judicial proceedings, whether suits or cases, are divided into six classes. The classification relates only to the preparation and the preservation or destruction of the record, and does not affect any other classification of suits or cases for the purpose of returns or statements.

440. *Class I* includes records of—

(a) Suits for or affecting immovable property other than suits under Or. 34, C. P. Code, 1908, for foreclosure, redemption or sale.

Note.—Suits under sec. 9 of the Specific Relief Act, 1877, should be included, not in this class, but in Class III.

(b) Suits in respect of the succession to an office, or to establish or set aside an adoption, or otherwise determine the status of an individual.

(c) Suits relating to public trusts, charities, endowments, public or general rights or customs and other matters of public or general interest.

441. *Class II* includes records of—

(a) Suits for a declaration of a right to maintenance with or without a charge on immovable property, or to determine the rate thereof.

(b) Suits between landlord and tenant to determine the rate of rent, or in which any question relating to a title to land or to some interest in land as between parties, having conflicting claims thereto, is in issue.

Note.—The phrase “suits between landlord and tenant to determine the rate of rent,” refers only to such suits as are brought expressly for the determination of the rate of rent, *e.g.*, under section 52 of the B. T. Act, and should not be extended to cover all cases in which the rate at which rent is payable is brought in issue.

(c) Cases under section 26F and section 158, B. T. Act, to determine the incidents of a tenancy.

*The rules specially applicable to records of Small Cause Courts will be found in Chapter 21, p 231.

(f) Applications for withdrawal of suits under secs. 74 and 88 of the Bengal Village Self-Government Act, 1919.

(g) Applications under sec. 5 of the Religious Endowments Act, 1863 (XX of 1863), except contested cases which fall within clause (c) to rule 440 above

(h) Such other cases as the High Court may from time to time direct to be included.

(2) *Class III-A* includes records of—

(a) Suits for arrears of rent under the B. T. Act where the claim does not exceed Rs. 250.

(b) Cases under section 153 (last paragraph) of the B. T. Act.

Note.—Proceedings under the C P. Code for the transfer, or for the restoration of a suit or appeal, or for a review of judgment, are proceedings in the suit or appeal, and must form part of the record relating thereto.

443. (1) *Class IV* includes—

Proceedings in execution of decrees in suits belonging to Classes I, II and III.

(2) *Class IV-A* includes—

Proceedings in execution of decrees in suits belonging to Class III-A.

Note 1.—Under the law, all such proceedings are proceedings in the suit and they must be entitled as such, but for the purpose of the arrangement and ultimate disposal of the record, each application for execution shall be treated as a separate case, the record of which shall include the papers on all matters connected with the execution from the date on which the application was presented until it is finally disposed of

Note 2.—Proceedings by which decrees are sent or transferred for execution are included under this general heading. In this connection *see* rule 887.

Note 3.—Orders under section 169 and section 148-A (8) of the B. T. Act should be written on the ordersheet of the case on which the proceedings arise and the papers relating thereto should form part of the record of the case.

444. Records of suits of the Small Cause Court class tried under the Small Cause Court Procedure by judicial officers empowered under section 25, Act XII of 1887, shall be disposed of in accordance with the rules hereinafter provided for the records of Courts of Small Causes (Chapter 21).

445. A separate record having its own order-sheet and containing appropriate papers or extracts from the original record should be started in proceedings under the Criminal Procedure Code arising out of a suit, appeal or execution case. A reference to the initiation and termination of the proceedings will be made in the order-sheet of the original suit, appeal or case and the record of the proceedings will be kept in the record-room with that of the original suit, appeal or case, annexed to that file thereof which under the rules is to be preserved for the shortest period

CHAPTER 17.

THE ARRANGEMENT AND PREPARATION OF RECORDS DURING THE TRIAL.

1. The Division of the Record into Files.

446. Every record under Class I shall consist of four files, to be styled and marked, respectively, File A, File C1, File C2, File D.

447. *File A* shall contain—

- (a) Table of contents.
- (b) The order-sheet.
- (c) The plaint or application, together with any schedule annexed thereto.
- (d) The written statement of the defendant or the counter-petition.
- (e) Memorandum of the issues
- (f) Judgment upon which preliminary decree (if any) is founded and such decree, with the further directions (if any) given.
- (g) Final order or judgment and the final decree
- (h) Award of arbitrators, petition of compromise, report of guardian *ad litem* (if any) that suit would not be contested, Commissioner's return or report, map, field book (in matters relating to immovable property) referred to and given effect to in the decree, but not any portion of the evidence taken by such Commissioner.
- (i) Copy of the judgment and decree of the appellate Court or Courts (if any).

• **Note.**—Registered address under Or. 6, r. 14-A, should not be kept in this file

448. *File C₁* shall contain—

- (a) Table of contents.
- (b) All the evidence, oral and documentary, upon which the subject-matter of the suit is decided
- (c) Lists of documents admitted in evidence.

449. *File C₂* shall contain—

- (a) Table of contents.
- (b) All petitions and papers, including those relating to proceedings incidental to the suit, not specified as included in any other file, and in cases where any defendant is proceeded against *ex parte*, only the last summons on the basis of which due service was declared and *ex parte* decree was passed against him and the return and the order thereon with the identifier's affidavit, if any.

Note.—The last summons, etc, referred to are to be transferred to C₂ File from D File after a suit is disposed of.

effect as regards all or any of the parties thereto, or if possession is given of immovable property in pursuance of the decree, the record shall be divided into two files, to be styled and marked, respectively, File B and File C

(3) In cases falling under sub-rule (2), File B shall contain—

- (a) Table of contents.
- (b) The order-sheet.
- (c) The application for execution.

When a question as to the construction, effect, or scope of the decree is raised and determined—

(d) The petition raising any question as to the construction or effect of the decree, and any counter-petition

(e) The judgment of the Court on such question.

(f) The copy of the judgment of the appellate Court or Courts (if any).

When possession of immovable property is given in pursuance of the decree—

(g) The *nazir's* return of delivery of possession

File C shall contain all other papers

454. (1) The record of an appellate Court shall be arranged in the same way as that of the Court of original jurisdiction, except that there shall be no C₁ File in respect of Class I records, the papers which would belong to that file where additional evidence is taken being attached to the C₂ File.

(2) The files shall be marked A, B, C, D, E, as in the Court of first instance according to the nature of the suit or case.

Note 1.—The copies of the judgment and decree which accompany a memorandum of appeal should be placed with File C₂ or D as the case may be.

Note 2.—In the case of a civil appeal, the certified copies of judgment and decrees with the memoranda of appeal should be returned to the appellants on their applying for them after the disposal of the appeals, since the original record is kept with the appellate record in the District Record Room. In the case of appeals from the decisions of Settlement Officers, these documents should not be returned, but should be retained with the appellate records.

See also, rule 358

455. The splitting up of the record and the distribution of the papers into the proper files must in all cases be made immediately after the first hearing and shall be continued from day to day as the case proceeds.

2. The Title Page.

456. To each file of every record under Classes I, II, III, III-A, IV and IV-A shall be prefixed a title page in the prescribed Forms Nos. (J)4 to (J)11, Volume II, showing the period of its preservation.

Note.—No title page need be attached to records of cases referred to in rule 555 *post* until these are called for by some superior Court. Then the title page of the first file, according to classification, shall be attached.

provided in rule 466 be recorded only in the order-sheet and the serial number therein with the date of the order passed and no more shall be noted at the head of the petition, report, etc.

Note 2.—It is not intended to prohibit the writing of such routine orders as “call for the record,” “put up with the record,” etc on petitions. If the record of the case to which such petition or other document relates is in the District Record Room and it is necessary to send it there for being attached with the record, suitable order may be endorsed thereon. If in the special circumstances of a case it becomes necessary that immediate order should be passed on a petition, or any such document, the order must be transferred to the order-sheet at the earliest opportunity

465. The order-sheet, being intended to show the course of a suit or case from first to last, shall also contain a note of every order made in the suit or case, and shall show the date of, and the proceedings at, every hearing. It is to be a faithful history of the case and all proceedings taken in it and at the same time it should be so drawn up as to show all the details of the case at one view, and yet be as concise as possible. It shall show, among other matters, the dates on which the plaint and written statements were filed, issues were recorded or amended, witnesses examined and their names in the order in which they are examined, the date of the delivery of judgment, of the signing of the decree, and of any application for review of judgment or amendment of the decree. It shall also contain a note of other proceedings and of the fact of any objection being made thereto, and if witnesses are in attendance when a case is adjourned, the fact shall be noted with an order to attend on the date their attendance may be required.

Note.—Orders in proceedings under the C P. Code, for the transfer, or for the restoration of a suit or appeal, or for a review of judgment (see the last Note to rule 442), should be entered in the order-sheet of the main suit or appeal. A separate order-sheet should not be prepared. In all cases the order of an appellate court calling for the record of a suit or appeal, should be recorded on a separate paper and reproduced on the order-sheet of the suit or appeal when the records have been received from the lower Court. When such proceedings are disposed of without the main record being called for by the appellate Court, the order on the application should, in the same way, be recorded on a separate paper, and directions given to the subordinate Court to reproduce the same on the order-sheet of the main record. If the orders thereon are lengthy, the instructions given in the following rule (466) should be followed

466. (1) Orders, the reasons for which require to be recorded at length, shall not be written on the order-sheet, but a note of the order and of the date on which it was made, shall be entered in it.

(2) Orders directing anything to be done by parties or their pleaders shall be signed then and there by the parties or their pleaders.

Note 1.—While every endeavour should be made to get the signature of the pleaders concerned to important orders, their attention is drawn to the fact that it is not the duty of the officers of the Court to call upon the pleaders to sign the orders issued, or to inform them of the nature of the orders passed. It is for the pleaders to be present at the proceedings to make themselves acquainted with the orders passed (*Robert Watson v Ambika Dass*, 4 C W N, 237, 238).

Note 2.—Pleaders should invariably append the date when signing orders and proceedings in token of their being communicated to them, but nothing should be written other than signature and date

467. The order-sheet may be written by an officer of the Court at the dictation of the presiding Judge, who, however, shall sign as soon as possible after it is so written and be responsible for the correctness of the entries in it. Important orders or orders which call for the exercise of judicial discretion or discrimination should always be drawn up in the presiding Judge's own hand. Time may be abbreviated by the use of rubber stamps for recording routine orders

Note 2.—When documents consist of shop-books, collection-books or the like, the items or entries intended to be tendered as evidence at the trial and exhibited should be marked with “flags,” at the time of filing them without which the Court may refuse to receive such books

Note 3.—Documents filed should bear at the top consecutive numbers in bold figures corresponding with the numbers in the list [Form No (J) 22] to enable the officer receiving the documents to verify the items without loss of time

(2) If any such documents cannot, by reason of their number, bulk or size be attached to the record or kept tied in a piece of cloth, or if convenience or safe preservation of the documents demands, in the opinion of the Court, that they should be kept in a suitable box, a box of adequate size and properly labelled shall be provided by the person by whom or at whose instance they are filed. If the Court's order for the supply of such box be not complied with, the Court may refuse to receive the documents and the party filing or his pleader shall be bound to take them back

(3) The list mentioned in sub-rule (1) shall be kept with the record and not in the box

473. Should any document which has been partially erased or interlined or which otherwise presents a suspicious appearance, be presented at any time in the course of proceedings a note should be made of the fact and if the Court sees sufficient cause the document should be impounded under Or 13, r. 8. If any document be presented which appears to have been executed on unstamped or insufficiently stamped papers, action should be taken under secs 33 and 35 of the Indian Stamp Act, 1899.

474. If any document included in the list is referred to in the proceedings or shown to a witness before it is tendered in evidence and formally proved, it should immediately be marked for identification.

475. Every document “admitted in evidence” shall be detached from the list and annexed to a separate list in Form No. (J) 23, Volume II, after being immediately endorsed with the particulars stated in Or. 13, r. 4, and signed or initialled by the Judge in the manner required by that rule, and marked with an exhibit number.

Note.—When a document of historical or antiquarian interest or an original record of the High Court is produced or tendered in evidence, the Court before which it is produced should make every possible endeavour to prevent its being defaced by endorsements or exhibit marks or by having the seal of the Court impressed upon it. If the presiding Judge will use his common sense, some means of avoiding such disfigurements will probably suggest itself. The parties will probably agree to a photographic copy being substituted for the original, or the document may be enclosed in a sealed cover, or in a locked and sealed box, the necessary particulars being endorsed on the outside. If other means fail, careful measures should be taken for the safe custody of the document pending instructions from higher authority.

476. Documents admitted in evidence shall be marked with numerals 1, 2, 3, etc., and capital letters A, B, C, etc., according as they are admitted on behalf of the plaintiffs/petitioners or defendants/opposite party and separate lists of the documents thus admitted shall be prepared by the Bench Clerk in Form (J) 23 and signed by the presiding Judge. The documents shall be entered in the lists in the order in which they are admitted and marked. If the capital letters are exhausted, double capitals shall be used

documents immediately after the hearing is finished. If they are not taken back or accepted when returned, the documents remain entirely at their risk

Note 2.—If any pleader refuses to take back a document returned to him, the presiding Judge may then giving him 7 days' notice arrange the destruction of the document without having recourse to the procedure in rule 485.

Note 3.—When an application for probate or letters of administration with the will annexed is withdrawn, or dismissed for default or non-prosecution, the will may be returned to the party filing on his application except where there is any provision of the law requiring the Court to retain it. If any forgery is suspected, the Court may keep the will pending such action as it may deem proper

483. (1) No document shall be returned which by force of the decree or order of the court has become void or useless, the rights of the party filing it being completely provided for by the decree or order.

(2) If by force of the decree the mortgage instrument has become void or useless, as, for instance, in a case where the suit is upon a simple mortgage bond and the rights of the plaintiff under it are completely provided for by the decree, the return of the instrument will be unnecessary. It should however be returned where his title in any way still depends on the instrument, *e.g.*, when the suit is brought upon a usufructuary mortgage on the ground that possession is withheld.

484. When a plaint is returned before any action is taken on it, for filing in the proper Court, all the papers filed with it should also be returned to the person who filed it.

485. Great care should be taken that documents not admitted in evidence are not mixed up with the exhibits in the case. Unexhibited documents if not taken back by the parties or their pleaders shall before the judgment is pronounced be removed from the record and placed elsewhere with a fly leaf attached to them marked with the number and name of the suit and the name of the party or pleader filing the documents. They shall not be sent to the District Record Room but shall be destroyed at the end of six months from the date of the final order of the Court in the suit or proceeding in which the documents were produced, after giving such notice to the parties or their pleaders as the Court considers proper.

Note 1.—A complete list of documents etc., shall be prepared and entered in a book a month before the destruction showing the number and year of the case, name of person of pleader filing, nature of document, etc., and an intimation sent to the local Bar Association that the list is open for inspection. As the documents are destroyed the date of destruction should be noted in the remark column of the list

Note 2.—Presiding Judges should see that all documents not taken back are listed at regular intervals and the list is put up before them and that the documents are destroyed without fail at the time prescribed by this rule

486. The following note shall be entered at the foot of every copy of a decree granted to the parties or their pleaders to a suit or case :—

“The parties should apply as soon as possible for the return of all exhibits which they may wish to preserve, as they will be destroyed at the time prescribed by the High Court”

Note 1.—The above note shall be penned through if there are no exhibits for return. In compromise decrees or other cases where no one is entitled to recover anything as costs, the schedule of costs should also be penned through

Note 2.—Presiding Judges of outlying courts should see that exhibits are as far as possible returned to the parties or their pleaders before the periodical despatch of records to the District Record Room

CHAPTER 18.

INSPECTION OF RECORDS NOT SENT TO THE DISTRICT RECORD ROOM.*

488. No record or paper not deposited in the District Record Room shall be inspected by any person without the permission of the presiding Judge of the Court to whose file it appertains

489. The Court may permit a party to the suit or his advocate or pleader to inspect the record of a pending case fixed for the day. No notes or extracts shall be taken from any portion of the record.

Note 1.—When the inspection of any original document is allowed in Court, the Bench Clerk in attendance should, for that purpose, make over to the legal practitioner concerned the document or the section of the file containing the document required for inspection. After inspection he is required to replace it in its proper position in the file with his own hand. He must see that exhibited documents are not removed from the list with which they are annexed. He should also watch the inspection and be held responsible for the documents.

Note 2.—Inspection of record of a pending case fixed for the day should ordinarily take place in the office in the presence of the sheristadar before the sitting hour. The inspection should be allowed upon the same conditions as in Note 1.

490. The presiding Judge may either in his presence or in the presence of his sheristadar allow inspection of records not sent to the District Record Room to public officers and advocates or pleaders in the case subject to the general conditions laid down for inspection of records in the Record Room (*vide* rule 547, *et seq post*). He may, by general or special order in writing, prescribe upon what conditions and at what time and place such inspection may be allowed. No searching fee shall be levied. He should be careful that his orders do not interfere with the right to demand production of documents on notice and the consequent right to take copies which an opposite party enjoys under Or. 11, r. 15.

Note 1.—The permission of the presiding Judge may be obtained on a written application in Form No. (M) 36 which will be supplied free

Note 2.—An advocate or pleader may read any document or record specified in his application the inspection of which has been allowed by the Court, but he shall take no notes other than such short memoranda (to be written in pencil on slips of paper to be provided by the officer before whom the inspection takes place) of the date and nature of the document, names of parties, etc., as may be necessary to identify or describe the document or record in case a copy is required; but this permission does not extend to the taking of a copy of the proceeding or document, or any part thereof, or to making extracts therefrom. The inspection of a record and the taking of notes is a privilege the abuse of which should not be allowed. The directions in this rule must be very strictly observed.

Note 3.—If in disregard of this rule, surreptitious copies of or extracts from papers in a record are allowed to be taken or furnished, the ministerial officer concerned shall be held responsible and severely dealt with. (*See*, rules 598 and 672)

*As to inspection of records in the record room, *see* rule 547 *et seq.*

CHAPTER 19.

THE TRANSMISSION OF RECORDS TO THE DISTRICT RECORD ROOM.

491. The records of decided, contested and uncontested suits and cases of Classes I, II, III and III-A other than those referred to in rule 555, and the records of miscellaneous non-judicial cases and of cases belonging to Classes IV and IV-A shall be forwarded to the District Record Room by judicial officers at headquarters in the course of the third month and by judicial officers at out-stations in the course of the sixth month next succeeding that in which they were decided or disposed of.

Note 1.—For the purposes of this rule, suits (including mortgage suits) in which preliminary decrees are made are not finally disposed of till proceedings on the preliminary decree are terminated by a final decree or otherwise.

Provided that when no proceedings are taken to obtain a final decree, the record shall be sent to the record room, in the case of mortgage suits, on the expiry of three years from the date fixed for the payment of the sum declared in the preliminary decree to be due, and in other cases, on the expiry of three years from the date of the preliminary decree.

Note 2.—Where final decrees are passed on compromise in mortgage suits, and there are instalments to be paid extending over three years, the records should be sent to the District Record Room when the final decrees are passed.

Note 3.—The date of disposal of an application to deposit rent shall, when the deposit is under sec. 61 (a), (b), B. T. Act, be deemed to be that on which the money-order acknowledgment is received, and if the amount be refused by the payee or returned undelivered, that on which the amount is credited into the treasury under the order of the Court. In the case of deposit under sec. 61 (c), (d) of the Act, the date of disposal shall be deemed to be that on which the deposit has been paid away, or, if it has not been paid, that on which the notice prescribed by clause (2) of section 63 of the B. T. Act has been served.

*** 492.** District Judges shall fix the dates on which in the course of the month, the records from each Court, at headquarters and out-stations, respectively, shall be despatched to the District Record Room, the dates being so arranged as to secure an even distribution of work in the record room throughout the year.

Note.—The orders passed by the District Judge under this rule, fixing the dates for the transmission of records, shall be copied and posted in the record room and in the offices of the Court to which they relate.

493. (1) A notice exhibiting the dates for despatch of records to the District Record Room which have been fixed by the District Judge under rule 492, will be posted in a conspicuous part of the court-room of the courts concerned at least 10 days before the dates, a copy also being sent to the local Bar Association.

(2) The records will be despatched on the 7th day after the dates fixed by the District Judge

494. (1) Applications for copies of documents in such records will not ordinarily be entertained in the outlying courts unless they are filed within the date of despatch fixed by the District Judge under rule 492.

CHAPTER 20.

DISTRICT RECORD ROOM.

1. Record Room arrangement and general duties of the Record-keeper and his staff.

499. The "record room" is a room set apart for the storage of *decided* cases, and the "record-keeper" is the ministerial officer in immediate charge of such records.

Note.—The term "record-keeper" includes the ministerial officer who may be placed by the District Judge in charge of the record room in an outlying station, where there is any

500. Whenever possible it should be arranged, that each record room shall have only one combined entrance and exit, and that the record-keeper's table shall be so placed that no one can enter, or pass papers out of, the record room unseen by him.

Note.—Repunching peons should work near the record-keeper's table.

501. All outer windows, doors or openings in the walls of the record room, and all inner and outer windows, doors or openings giving access from the record room to any office or verandah which is not part of the record room, shall be protected by iron railings and wire-netting, in such manner as to render it impossible that papers should be passed through them, and the record-keeper shall, by periodical inspection, satisfy himself that the railings and netting are in good order.

502. The record-keeper must obtain and keep on his guard file a copy of the instructions issued by Government for the protection of buildings and records against fire, and he will be held responsible for ensuring that these instructions are carefully observed.

Note.—No smoking of any kind is on any pretence to be permitted in a Court, in any office room attached to a Court or in any part of the record room or its annexes. The Bench Clerk or the sheristadar of each Court or the record-keeper, or the ministerial head of the department concerned, as the case may be, will be responsible for seeing that this rule is strictly enforced, and bring at once to the notice of the Judge any infringement thereof.

503. The distribution of work among the clerks should be on a scheme to be approved by the Judge-in-charge and so far as possible it should be arranged on the basis of the various Courts in the district, each clerk dealing with the records of the Court or Courts of which he is in charge and all matters connected with them. Each clerk shall be furnished with a duty card of his duties.

504. Any officer who permits the records of his office, or in his record room, to fall into disorder, is under the orders of Government, held responsible for the expenses incurred in their rearrangement; and any officer receiving charge of an office or record room, the

and be used with, the shelf number. The reference in an index of the record room, or in the despatch-list, will thus be "Room I, Rack I, Shelf I-A"—meaning the first shelf on the left hand side of Rack I.

510. An Index-sheet, typed or printed in foolscap size in Form No (M) 39, Volume II, and pasted on a flat board, should be hung in a conspicuous place at the end of each rack.

511. Every almirah in the record room should be clearly marked outside with a letter or figure, and the shelves therein should be numbered. A list, in English, showing its contents should be kept in each almirah.

512. A statement should be prepared and posted in every record room showing shortly, but accurately, what steps are necessary in order to trace a record in the record room.

513. The record-keeper shall maintain the following Registers, in English:—

- (i) Index Registers, that is, Bound Despatch Lists [rule 495 (1)] which must be paged and indexed, so as to show at what page or pages the various classes of records will be found.
- (ii) An index of Index Registers, in Form (M) 42 Volume II. This should, if possible, be kept in the record-keeper's office.
- (iii) The Register of records issued from the record room [Form No (R) 29, Volume II]
- (iv) The Register of applications for the return of documents [Form No. (R) 30, Volume II]. This must be entered up daily and preserved for 12 years
- (v) The Register of requisitions for documents [Form (R) 28, Volume II].
- (vi) An attendance Register of the record-room staff, to be preserved for one year (*see* rule 871).
- (vii) Register of applications for payment [Form No. (R) 38, Volume II].

514. The record-keeper shall also keep in a guard file all inspection notes (or a copy thereof) made by the District Judge or by any other officer on inspecting the record room, and shall note on the margin of such notes the action taken upon them.

515. Registers not in current use and stored in the record room, should be arranged on shelves vertically and should be labelled on the back of the volume. Suitable divisions should be made in the shelves, which should also be strengthened, if necessary, for their reception, by means of vertical battens, iron supports or wire divisions placed at suitable intervals.

516. The more important duties of the record-keeper are stated below. It should not be supposed that the enumeration of duties is in any way exhaustive. It has merely been thought desirable to set out in detail certain of a record-keeper's more important duties, but record-keepers must understand that they will be held responsible for the due and prompt performance of all duties connected with the management

left lying about the gang-ways or floor of the office or record rooms. All almirahs must be kept clean, and their contents in order, with a list of the contents in each almirah.

(20) The record-keeper's attention is called to the necessity for the careful and accurate preparation of returns, and until he has worked his staff up to a proper understanding of their responsibilities in returning accurate figures, he should check all figures himself.

(21) It is imperative that the record-keeper should insist that no unauthorised person enters the record room or the offices appertaining thereto, and that he should see that his directions in this respect are duly carried out.

(22) The record-keeper should pay particular attention to the rules relating to the second triangular punching of Court-fee stamps. He should periodically inspect the punches to see that they are in good order.

(23) He should also carefully observe the rules relating to destruction of records and should satisfy himself that the destruction of records or portions of records, as the case may be, is periodically and punctually carried out.

(24) He is responsible that the Attendance Register of his office is properly and accurately written up.

(25) He must arrange that applications for copies shall be promptly complied with.

(26) He is responsible for the proper application of the rules relating to payment orders and attachment of moneys.

(27) The record-keeper should, on each working day, examine the contents of at least one bundle of records. He should open the bundle, see that the records are in order, that no documents are missing, that the repunching of stamps has been carried out, that the High Court's Rules and Orders for the arrangement of records have been complied with, and that destruction has been carried out. When he has satisfied himself that the work in that bundle has been properly done, he will retie the bundle and initial it in red ink, at the bottom left hand corner of its outer label, placing the date of his inspection immediately below his initial. At the same time he will make a similar entry in the Index Register.

(28) Should it be found that any papers are missing, that destruction is overdue, or that any suspicious circumstances are observable in connection with stamps, the fact should be reported to the District Judge through the Judge in charge of the record room.

(29) The record-keeper shall at once bring to the notice of the Judge in charge any irregularities which he may discover in the records deposited in the record room.

2. Receipt of Records in the Record Room.

517. No record should be retained in a District Record Room which does not find an entry in one of the prescribed record room registers.

518. On the arrival of a batch of records in the District Record Room, the record-keeper shall see.—

(1) that each record is stamped with a rubber stamp bearing the words "District Record Room", the name of the district and the date;

(2) that the record correspond in number and description with the entries in the despatch lists;

(3) that a second hole is punched with a triangular punch on each court-fee label distinct from the first and a note is at the same time made upon the title page of each record of the date on which the stamps on documents contained in it have been so punched;

(4) that the classification and arrangement under Chapters 16 and 17 of this Part have been carried out, that the contents of each file

522. Separate sections of the racks should be provided for each group within which the files should be arranged according to the date of the decision of the case to which they relate. Thus the records of each Court should be grouped in the following way:—

Group No	Class No	Files	Period of preservation.
1	Class I	A	For ever.
2	Class IV	B	20 years
3	Class II	B	20 years
4	Class I	C ₁ , C ₂	12 years.
5	Class II	C ₂	12 years.
6	Class IV	C	12 years.
7	Class III	C	12 years.
8	Class III-A	E	6 years.
9	Class IV-A	E	6 years
10	Class I	D	3 years.
11	Class III	D	3 years
12	Class III-A	D	3 years

523. The records of each group should be made up into bundles of convenient size, provided that no bundles should contain the records of more than one year. The bundles containing the records of each group should be placed in juxtaposition in the spaces allotted in the racks to each group, care being taken to economise as much space as possible.

524. In the disposition of bundles on the racks regard should also be had to the daily work arising in the record room, and the arrangement should be such as to facilitate access and minimise removal and displacement.

525. As the time for destruction of the records of a particular year arrives, the bundle or bundles for that year will be removed from the rack or section of a rack which they occupy, and the rack or section will then become available for the records of the incoming year.

526. Records forwarded to the District Record Room will be opened out and made up into flat bundles of foolscap size. To the back and front of each bundle a flat board, or a piece of stout mill-board of foolscap size should be tied. Each bundle should not ordinarily exceed eighteen inches in depth but, in the case of iron racks of the old standard pattern, two bundles of a convenient size may be made up, so that the entire depth of the shelf may be fully utilised.

527. On the board in front of each bundle there shall be placed a label in Form No (M) 41, Volume II, and the space showing the due date of destruction shall be filled in. The blank half of the form will be used for noting the removal of records from, and their return to, the bundle. On removal of a record, its number will be noted on the blank half with the date of its removal. and on its return the note will be crossed out. When the blank half of the form has been filled up, for the purpose of further entries a clean sheet of foolscap paper should be pasted over it, care being taken to make a note on this paper of all records taken out of the bundle which have not then been returned.

despatch of the record, shall be taken by the record-keeper or a clerk in his office deputed for the purpose.

Note 5.—The memorandum of acknowledgment in Form No (M) 12 from the receiving Court should, whenever possible, without causing undue delay, be enclosed with other communications sent by outlying Courts to the record room at Sadar

Note 6.—It shall be particularly impressed upon the record-keeper and his staff that requisitions for records must not be returned on frivolous grounds. If the particulars given are sufficient to identify a record or if there are means for finding out the record, it must be traced even though the description as given by the applicant may in some respects be inaccurate. A case described by its class, number, name of Court and month and year of disposal can be located even though the date of disposal be not always accurate.

Note 7.—Requisitions marked "Urgent" shall be immediately complied with.

Note 8.—As to the procedure for return of records to the record room by the receiving Court, see instructions in G. L. No 6, dated the 29th February, 1932.

Note 9.—Records or documents called for shall, except in the case of requisitions marked "Urgent," be despatched as soon as possible but in any case within a week from the date of receipt of the requisition. Defective applications under sub-rule (2) shall be returned within three days of their receipt. Inspecting officers will particularly observe whether the several provisions of this rule are strictly followed.

Note 10.—In order that records may not remain out of the record room for an unnecessarily long period, Courts should not ordinarily send requisitions for records before a suit or case is fixed for peremptory hearing.

533. In complying with a requisition for copies of papers contained in a record, the record-keeper should not permit the entire record to be removed to the Copying Department, but only such documents as are specified in the application, unless the documents specified in the application constitute the entire record. Every application or requisition which necessitates the removal of papers from a record for the preparation of copies, or for any other purpose than return to the parties, shall, on receipt in the record room, be entered by the record-keeper or a clerk to be specially deputed for the purpose, in a register in Form (R) 28. Volume II.

Note 1.—Entries relating to papers and documents removed in compliance with a requisition for information or for any purpose other than transmission to the Copying Department should be made in this register in red ink.

Note 2.—Clerks of the record room establishment should bring to the notice of the record-keeper any delay on the part of the Copying Department in returning documents to the record room. The record-keeper should take such steps as will secure their return and in case of unusual delay submit a report to the Judge-in-charge of the record room for such action as he thinks proper.

534. Applications for the return of documents from records in the District Record Room shall be made to the Judge-in-charge during the hours to be fixed by him and shall contain the following particulars: (i) Name of the Court to which the record containing the document appertains; (ii) nature, number and year of the suit, case or appeal in which the document was filed, (iii) date of disposal of the original suit or case and of the appeal, if any; (iv) name of the party or person on whose behalf the document was filed; (v) name of the applicant and the capacity in which he makes the application; (vi) description of the documents. The Judge-in-charge will pass an order "Return if no objection" and transmit the applications to the record-keeper who shall enter them in the prescribed register [Form No (R) 30].

(2) If there is no objection to the application being allowed, the record-keeper shall himself return the document ordinarily on the next open day but not later than the day following it during the time to

any delay occurring in their despatch, a reply should be sent explaining the cause of the delay, and the probable date of their despatch

Note 1.—Cumbersome and bulky exhibits, *e.g.*, account books, *khata*s, zemindari papers and the like, should not be sent to the High Court in second appeals unless specially called for, but a note showing the nature of such exhibits should be made in the letter advising despatch of the records. It will be sufficient to note "Account Books (or whatever the papers may be) are not sent by reason of their bulk." Special attention is drawn to the instructions on the subject in G. L. No 6 of 1921

Note 2.—When exhibits such as are referred to in "Note 1" above are sent to the High Court in connection with any appeal or reference, care should be taken to see that the instructions contained in rule 477 (2) *ante* have been complied with.

Note 3.—In every appeal from an interlocutory order made in a suit and coming under Or 43, r 1 (a), (7) and (8) copies only of the plaint, written statement (if any), order-sheet and the papers directly relating to the interlocutory proceedings in appeal should be sent unless otherwise directed.

538. The following instructions should be observed in transmitting records from one Court to another:—

(1) If the two Courts are situated in the same station, the record should be despatched by hand properly packed with a peon book in which a serial number and date should be entered, and the signature of recipient should be taken. The serial number and date appearing in the peon book should be reproduced in the remarks column of the Register of records removed. If the requisitioning Court is situated in a different station, records should be sent by parcel post, the postage being paid by means of service stamps.

(2) Records relating to different cases should be packed in separate parcels: Provided that if not inconvenient, such records may be packed in the same parcel but separately tied up

(3) In the parcel containing a record should be enclosed a forwarding letter, and the cover of the parcel should bear the distinguishing number and date of that letter.

(4) A letter of advice should be forwarded simultaneously with the despatch of the parcel by post but separately and by ordinary letter post, and in it the number and date of the forwarding letter referred to in the preceding clause should be quoted.

(5) An acknowledgment should invariably be required from the Court to which a parcel containing a record has been sent, and in the event of none being received within a reasonable time, enquiry should be made to ascertain the cause

Note 1.—All letters advising the despatch of civil records to the High Court (Appellate Side), and parcels containing such records, as also all returns of civil processes issued by the High Court (Appellate Side), should be addressed to the Deputy Registrar of the High Court, Appellate Side [G. L. No 6 of 26th February 1892]

Note 2.—See Note 2 to rule 698

Note 3.—The procedure in clause (1) of this rule is to be followed also where the District Judge sends for a record from the District Record Room.

Note 4.—For forms of letter and acknowledgment referred to in this rule, see Forms No. (M) 12 and (M) 11, Volume II

Note 5.—Acknowledgments of the receipt of records sent out should be numbered and noted in the Register of records removed they should then be filed in serial order on a new file, and should be made up ultimately into yearly bundles.

Note 6.—When an acknowledgment of the receipt of a record is two days overdue, the record-keeper should issue a postcard reminder to the Court concerned, making a note of the issue in the Register of records removed.

and entered in red ink in the register of records removed before any entries are made relating to a new year. He should also cause to be prepared from this register a reminder list consisting of entries of all records which have been out of the record room for more than three months. On the return of a record the entry relating to it prescribed by this rule should be struck out.

544. From time to time reminders should be issued by the record-keeper in respect of such records, and if they do not result in the return of the record, he should take the orders of the Judge-in-charge.

Note.—A note of all reminders issued should be made in the reminder list and in the remarks column of the Register of records issued [Form No. (R) 29].

545. Lists of records which have been sent to the High Court should be prepared by the Courts concerned at intervals of not less than six months. These shall be placed before the Judge-in-charge with a view to securing the return of the records if the cases have been heard by the High Court.

546. The above rules so far as they are applicable shall be followed in sending and in complying with requisitions for records in pending cases

5. Inspection of Records in the Record Room.*

547. The record rooms of Civil Courts are not open to the public, but public officers of the district, including sheristadars, may, with the permission of the Judge-in-charge, be allowed to enter the record room and to examine the record of any specified case free of any charge, provided that such entry is made in pursuance of a public purpose

548. Advocates and pleaders duly authorised by any person in that behalf may, on payment of the prescribed fee [*vide*, rule 611 (I) (a) (ii), p. 248] examine any specified record; but in doing so shall make no notes, other than short memoranda (to be written in pencil on slips of paper to be provided by the record-keeper) of the date and nature of the documents, names of parties, etc., as may be necessary to identify the document or record in case a copy is required. Except where otherwise expressly provided for in the rules regarding the Copying Department, he shall not be entitled to take a copy of the proceeding or document or record, or any part thereof or to take extracts therefrom.

Note 1.—A notice in the sense of this rule should be exhibited, both in English and in the language of the Court, in the office in which records are inspected. No legal practitioner shall be allowed access to the record-room or the offices appertaining thereto, otherwise than in accordance with this rule.

Note 2.—No person inspecting a record or paper shall make any mark on or in any respect mutilate any record or paper which is being inspected.

549. Every application for inspection shall be presented on a printed Form (M)36, Volume II, with the prescribed fee affixed to it to the Judge-in-charge of the record room (or the officer designated by him for the purpose) between the hours of 11 a.m. and 4-30 p.m. on court days and between the hours of 11 a.m. and 1 p.m. on Saturdays. The application shall clearly state why the inspection of record or paper is desired.

550. Any person named in an order for inspection may make such inspection only on days on which the court is open between the

*As to inspection of records not sent to the district record room, see rule 488 *et seq*

of appeal, whichever is the later date. For the purposes of this rule, each execution record shall be dealt with separately, irrespective of any other application to execute the same decree or order.

Note.—When no steps are taken by the decree-holder in the Court to which a decree is transferred for execution and papers accompanying the decree along with the certificate under sec 41, C P Code, are returned to the issuing Court under rule 266, they may be destroyed by the latter Court after three years if it is satisfied that execution is barred by limitation.

555. (1) Notwithstanding anything contained in the foregoing rules, the record in the following cases shall be preserved for one year and shall consist of one file only unless such distribution has already taken place before disposal.—

- (i) Where the plaint or memorandum of appeal has been rejected.
- (ii) Where the case has been dismissed for default under Or. 9, rr 2 and 3
- (iii) Where the case has been dismissed on satisfaction before decree.
- (iv) Where the plaint has been returned for presentation to the proper Court.

Note 1.—In case (i) the file will be split up when an application for restoration is filed

Note 2.—In cases where costs have been awarded by the final order, the record should be classed as File C.

(2) On the record of every such case the ministerial officer in charge shall stamp or write conspicuously the words "Rejected," "Dismissed for default," "Satisfaction" or "Plaint returned," as the case may be.

556. Copies of plaints and written statements returned by pleader commissioners with their reports may be destroyed immediately after the disposal of a case.

557. Unreturned exhibits received in the record room with the records transmitted therein shall be liable to destruction at the expiration of one year from the date of the final order of the Court in the case or proceeding in which the documents were produced

558. Before arrangement of the records in the record room, the record-keeper shall cause a list to be prepared and entered in a book of all unreturned exhibits to be kept in the following form —

Name of Court	Description and No and year of case	Nature of document	Names of persons filing	Name of pleader, if any	Date of final order.	Due date of destruction	Remarks.

Note.—Cumbersome and bulky exhibits, *e g.*, account books, *khata*s, zemindary papers, and the like, which cannot be conveniently kept with the records should be preserved separately, *e g.*, in almirahs, boxes, and bundles with a fly leaf marked with the number and name of the suit and the name of the party or pleader filing the documents.

CHAPTER 21.

RECORDS OF COURTS OF SMALL CAUSES.

563. In Small Cause Court cases no order-sheet need ordinarily be attached, the orders being recorded on the back of the plaint. When, however, the defendant appears and a case becomes contested, an order-sheet should be attached.

Note.—When the space on the back of the plaint is exhausted before an undefended case is disposed of, an order-sheet may be attached

564. The record shall be prefixed by a table of contents and shall consist of only one file including proceedings in execution taken in a Small Cause Court. Papers connected with any such proceedings will be shown in the table of contents under a separate heading giving the number of the miscellaneous case, execution case, etc.

Note.—Papers should be arranged in the order in which they are filed, except that written statement (if any) shall be placed after the plaint.

565. The Rules in Part III should, as far as they may be applicable, be followed in the case of records of Courts of Small Causes.

Note.—The rules of the following subjects amongst others should be observed.—

Writing on order-sheet, endorsement and return of rejected documents, marking of exhibits, making a list of documents admitted in evidence, return of documents produced but not tendered in evidence, etc.

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566. The records of suits decided by Judges of Small Cause Courts when presiding in such Courts shall not be forwarded to the District record-room, but shall be retained in the trial Courts until the period of their destruction, as hereinafter specified, shall arrive.

567. The records of suits decided by officers vested with the powers of a Small Cause Court Judge, shall in the course of the next succeeding month after disposal be deposited in the District Record Room at headquarters stations and the Munsifs' Record Room at outlying stations and preserved there until such time as they are destroyed under these rules.

568. The records shall be divided into two groups and sent in separate bundles to the record room with separate lists in Form No R. (32), Volume II, each record being prominently marked A or B in accordance with the following classification:—

Group A—Records of cases in which any one is entitled to recover anything.

(6) A conspicuous note should be made of the date of disposal and of the results of the suit and of every subsequent proceeding which has the effect of postponing the date of destruction of the record, on the outer sheet of each record.

570. Records of Groups A and A-1 left over after transfer in pursuance of the above rules by reason of execution or other proceedings shall be destroyed at the end of three years, and those belonging to Groups B and B-1 at the end of one year from their dates of disposal. After 12 years from the date of decree all records shall be destroyed whether there has been a satisfaction or not.

571. Destruction shall be carried out monthly. The record-keeper shall during the first week of every month remove the bundles due for destruction and note the number of the cases in a bound book to be kept for the purpose. He shall also take the orders thereon of the Judge-in-charge or the presiding Judge of the Court as the case may be and then destroy the records making a note in the lists where necessary.

Note.—Lists destroyed shall also be entered in this book which is to be preserved for six years.

CHAPTER 22.

CLASSIFICATION, PRESERVATION AND DESTRUCTION OF CORRESPONDENCE IN DISTRICT JUDGE'S ENGLISH OFFICE.*

572. There shall be separate almirahs marked "Current," "Recent" and "Old" to contain correspondence of the current year, the preceding one, two or three years and of the last twelve years. In the almirahs a convenient number of compartments should be assigned to papers of different departments according to requirement.

573. The following classification of papers should be made:—

A	...	...	To be preserved for ever.
B	...	...	To be preserved for 12 years.
C	...	...	To be preserved for 3 years.
D	...	...	To be preserved for 1 year.

It is generally possible to determine at once to which class a paper will belong and to prevent an undue accumulation and neglect of this work, it is desirable at once to distinguish all letters and papers as A, B, C, D and mark them prominently by the use of A, B, C, D stamps.

574. At the end of the current year, all correspondence and collections should be gone through and examined. Of the correspondence which has become 12 years old, that of the A Class should be sent to the record room (*vide* rule 580), the rest being destroyed. "Recent" correspondence three years old (marked A or B) should be transferred to the "Old" correspondence, that marked C being destroyed and "Current" correspondence should be transferred to the "Recent" correspondence, that marked D being destroyed. Destruction must be by fire.

575. It will always demand the exercise of considerable circumspection, local knowledge and intelligence to prevent the destruction of papers that may be needed for future reference. Much, therefore, must depend on the careful supervision of the District Judge or the subordinate judicial officer placed in charge of the English Office. No rules can be applicable to all cases in all districts, and it is not intended that the classification prescribed should be rigidly followed without the exercise of individual discretion.

576. The four lists given in rule 578, contain the detailed classification by which officers are to be guided in the destruction of correspondence. The object of this classification is to provide for the permanent preservation of all really important papers, and at the

*The rules in this Chapter should, as far as they may be applicable, be followed in the case of correspondence, etc., in the office of other judicial officers.

Class C.

Papers to be stamped with the letter C, and to be destroyed after three years.

Ministerial officers and process-serving peons—Promotion, increment, dismissal, retirement, extension of service, departmental enquiries, transfer, leave.

Legal Practitioners—Probationary pleaders, cancelled licenses, commissions, Survey Examination, Mukhtarship Examination

Opinions on Acts. Bills, etc

All monthly, quarterly and half-yearly returns from subordinate Courts

Indents for forms, stationery, books, furniture

Accountant-General, Bengal's objection statements and explanations thereon.

Charge letter of judicial officers.

Orders about contract and contingency grants.

All other miscellaneous matters that do not come under the above classifications.

Class D.

Papers to be stamped with the letter D, and to be destroyed after one year.

All reminders, memoranda and similar unimportant small letters in Classes A, B and C.

Mere formal correspondence, acknowledgment of letters, publications and other trivial correspondence

Other correspondence of a miscellaneous nature to be included at the District Judge's discretion

Applications from ministerial officers.

Civil list.

579. Although according to the lists, papers in Class A are to be kept "for ever," an expression used because it is unsafe to fix any period within which they may be unobjectionably destroyed, it is necessary, in order to prevent the excessive accumulation of papers, to make arrangement for periodically relieving the record room of old papers which are really of no permanent importance or administrative interest. Such a revision should accordingly be made every five years and a report made to the District Judge upon whose authority the superfluous records will then after personal inspection be destroyed.

580. At the close of each year, the A Class correspondence (*i e.*, correspondence to be preserved for quinquennial revision) which has passed out of the category of old correspondence will be transferred to the record room with a flat index board attached in the following form :—

NAME OF OFFICE

FILES NOS. 1 TO .

A files to be examined every five years.

First examination to be made in 19 .

Date of examination made.	Serial number of files destroyed	File removed		
		No.	Where gone.	Date and initial of Mohurrirs

that effect should be made in the register. The register should also be under lock and key. When the officer-in-charge of these papers goes on leave or is transferred he should hand over the key to his successor after verifying the contents of the box or almirah in his presence.

588. Papers falling under heads (c) and (d) of rule 586 should be kept in a locked box or drawer in the personal custody of the District Judge. When vacating his office, he should personally hand them over to his successor

589. At the end of year the papers of all four classes should be examined under the personal supervision of the District Judge and papers which it is no longer necessary to keep should be destroyed, and papers falling under heads (c) and (d) of rule 586 should be transferred at his discretion to the office almirah.

PART IV.—Information, Copies and Copying Department.

CHAPTER 23.

INFORMATION.

590. Any person may apply for information from the records and registers of any court.

591. All applications for information shall be made in the prescribed form No. (M) 55 to the Judge in charge of the District Record Room or some other officer designated by him for the purpose and in the case of records in the office of the different Courts, to the presiding Judges of those Courts, during the first two hours of the Court's daily sitting.

Note 1.—Form of application [No. (M) 55] obtainable from the Nazir at $\frac{1}{2}$ anna each or one rupee per hundred must be used and a searching fee of 4 annas attached in court-fee stamps

Note 2.—Applications should be sent to the copying department in batches as soon as a sufficient number of them accumulates

592. Information may be asked for in one application in respect of any number of items taken from the same record or register.

Note.—For the meaning of "same register," see Explanation to Note 1, rule 611 (1) (a), page 247.

593. (1) The officer receiving applications shall number them consecutively and enter them in the prescribed register [Form No. (R) 24] and the date of receipt shall be noted, or stamped thereon. If the information can be furnished at once, he will note the same on the upper portion of the form in the remark column and make that part over to the applicant, taking the latter's dated receipt in the lower portion which will be retained and recorded in the office.

Note.—Urgent applications will be entered in the register in red ink

(2) If the information cannot be furnished at once, he will enter in the fourth column of the Form No (M) 55 as also in the lower receipt portion the date and, if possible, the hour, by which the information will be furnished. The lower receipt portion will then be torn off and made over to the applicant with a direction to present it on the day and hour noted. The upper portion will be immediately passed on to the ministerial officer in immediate charge of the record concerned who shall enter in the remark column the information required and return it to the receiving officer before the time prescribed. The upper portion bearing the information will be made

ministerial officer of the department concerned (sheristadar, record-keeper, nazir, etc.), should be warned that failure to check such abuses will be reckoned as an indication of inefficiency on his part and he is liable to be degraded or otherwise punished.

Note 1.—The sheristadar or the record-keeper should see that outsiders do not on any account come into the room where the clerks sit or hold conversation with them.

Note 2.—The Judge in charge or the presiding Judge as the case may be, should as frequently as possible inspect the Register of applications for information and initial it with a view to see whether information is being promptly supplied and whether information which is to be applied for on payment of searching fee is being surreptitiously supplied. It is recommended that the Judge should have the information sheets distributed in his presence as often as time permits.

CHAPTER 24.

COPIES.

1. Presentation of Application—Who may obtain copies.

599. All applications for copies of papers or documents other than those on which expedition fees are paid shall be presented in Form No. (M) 54, Volume II, to the Judge in charge of the copying department or some other officer designated by him for the purpose during the first two hours of the court's daily sitting. The party requiring the copy shall present his application signed by his pleader or by his authorised agent or by himself, if acting in person.

Note.—Form of application obtainable from the nazir at $\frac{1}{4}$ anna each or one rupee per hundred must be used.

600. A plaintiff, or a defendant who has appeared in the suit, is entitled, at any stage of the suit, *before or after decree*, to obtain copies of the record of the suit, including exhibits which have been put in *and finally accepted* by the court as evidence.

Note 1.—A party who has been ordered to file a written statement is not entitled to inspect or take a copy of a written statement filed by another party until he has filed his own

Note 2.—This rule does not prohibit the grant to parties at any stage of uncertified copies of documents produced along with the plaint or under Or. 13, C. P. Code, in cases where they do not wish to take copies themselves under the provisions of Or 11, r. 15.

Note 3.—"Suit" in this rule, and in rules 601, 602 and 603 includes execution and miscellaneous cases.

601. A stranger to the suit may, *after decree*, obtain, as of course, copies of the plaint, written statements, affidavits, and petitions filed in the suit: and may, for sufficient reason shown to the satisfaction of the court, obtain copies of any such document *before decree*.

602. A stranger to the suit may also obtain, as of course, copies of judgments, decrees, or orders at any time after they have been passed or made.

603. A stranger to the suit has no right to obtain copies of private documents except with the consent of the person by whom they were produced, or his successor in interest. He may obtain copies of other

2. Searching-fees and charges for copies.

611. The following charges shall be levied for inspection, information and copies.—

Nature of the fee or charge	Cases in which to be paid.	Amount	How to be paid.
(1) Searching fee.	<p>(a) On all applications.—</p> <p>(2) For information whether the record is deposited in the District Record room or not.</p> <p>Note 1.—This shall be the only fee required on such application. One searching fee only shall be charged for any number of items of information taken from the same record or register and included in the same application.</p> <p><i>Explanation.</i></p> <p>“Same register” includes any number of volumes of the same class for any one year but not different classes of registers though of the same year.</p> <p>Note 2.—Only one searching-fee should be charged in respect of an application for information required in connection with a single cause or matter, even though the search involves reference to several records or registers. A separate application should, however, be required and a separate fee charged in respect of information required in connection with every separate cause or matter.</p> <p>Note 3.—See Note 5 to clause (1v), p 250</p>	<p>Rs a p</p> <p>0 4 0</p>	<p>By a court-fee stamp to be affixed on the application.</p>

Nature of the fee or charge.	Cases in which to be paid.	Amount	How to be paid.
(1) Search- ing fee— <i>contd.</i>	<p>Note 1 (a)—No searching fee shall be charged in respect of applications for copies of papers in the records of cases filed within the time specified in rule 491 for transmission of records to the District Record Room.</p> <p>(b) No searching fee shall be charged in respect of copies of papers in the record of the trial court when such record is with the appeal pending against the decision in the original case.</p> <p>Note 2.—One searching fee only shall be charged for any number of copies taken from the same record or register and included in the same application [For the meaning of “same register”, see Note 1 to clause (a), p. 247.]</p> <p>Note 3.—Only one application with a single court-fee stamp of one anna in Assam or two annas in Bengal under Art 1 (a) Sch. II of the Court-fees Act, 1870, is necessary when a copy is applied for of any number of documents on the same record, but when copies are required of documents in more than one record, there must be separate application with a separate stamp for each (H C Proceedings June, 1881, Nos 87, 88 and July 1882, Nos 86, 87)</p>	Rs a p.	

Nature of the fee or charge.	Cases in which to be paid	Amount.	How to be paid
(2) Copying charges.	(a) Manuscript copies whether certified or uncertified.	Rs. a. p. 0 4 0 per folio consisting as nearly as possible of 150 words English, or 200 words vernacular four figures counting as one word.	By means of an impressed stamp of 4 annas on each sheet of paper corresponding with the folio to be provided by the applicant for a copy. Each sheet shall contain a folio, that is as nearly as possible 150 words English or 200 words vernacular. Note. —As there are 25 lines in each sheet each line shall contain as nearly as possible 6 words English, or 8 words vernacular
	(b) Typed copies (in English or vernacular), whether certified or uncertified containing :— (i) 150 words or less	0 4 0	By means of an impressed stamped paper of 4 annas.
	(ii) Exceeding 150 words but not exceeding 300 words.	0 8 0	By means of the same impressed stamp paper of 4 annas, with an adhesive stamp of 4 annas affixed thereto across the perforated line on the top of the sheet of the impressed stamped paper, so that the figure head may be above the perforated line and that the portion below may clearly show the value.

612. (1) In the case of documents, such as *jamabandis*, measurement papers, order-sheets, accounts, registers and others which are not written continuously like a deposition, or which are not written right across the page, every endeavour should be made to write as many as 150 English words or 200 vernacular words on each folio.

(2) If it is found impossible to do this on each folio without distorting the form of the original document, as many additional sheets of plain cartridge paper as may be necessary (to be provided by the applicant for the copy) should be pasted on below, or at the side of the first sheet.

(3) In consideration of the additional time and trouble involved in copying documents of the nature described above, an additional charge may be levied from the applicants according to the following scale:—In all cases requiring more than three folios, one additional folio may be taken for every four folios, that is to say, one additional folio may be taken in cases requiring four to seven folios, two additional folios in cases requiring eight to eleven folios, three additional folios in cases requiring twelve to fifteen folios, and so on. No additional charge should be levied in cases which require from one to three folios.

613. No fees are to be demanded or paid for searching for or copying or typing papers required by public officers for public purposes. In such cases the copies are to be made on plain paper by the salaried establishment.

Note.—Local bodies and managers under the Court of Wards are not to be treated as public officers for the purpose of this rule.

614. In the case of maps and plans no general rule can be laid down. In each case a reasonable charge shall be fixed by the Judge in charge of the copying department with reference to the skill required, the difficulty or intricacy of the work and the time that it may occupy. Two-thirds of the amount will be paid to the mappists and will include the cost of materials; and the remainder will be credited to Government on account of examination fees.

Note.—Materials include tracing cloth, drawing instruments, paints, pencils, brushes, pins, etc. They are to be supplied by the mappists themselves and no charge for these articles is to be levied from the parties. Ink only is to be supplied from the office.

615. Uncertified copy may be converted into certified copy after comparison with the original, upon the application of any one producing it and upon his filing with such application the necessary court-fee stamps required by law; provided he is not debarred under the rules from getting a certified copy and the document is produced in its original state.

Note 1.—An uncertified copy obtained from the copying department at one station may be converted into a certified copy by the copying department at another station, provided the original is at the latter station when the copy is required to be certified.

Note 2.—Copies with notes written on them or portions marked or underlined shall not be accepted for conversion into certified copy.

Note 3.—If the original has been amended or added to or if any order has been endorsed on it after issue of uncertified copy, the uncertified copy cannot be converted into certified copy.

requisite information on the back of the receipt portion and return it to the applicant. If the requisite stamps and folios have been filed with the application, the document or copy required to be copied shall be at once sent by the office with the application to the copying department. If the information cannot be given at once, the applicant should be informed that the necessary number of folios will be notified in due course in the manner prescribed by these rules. The head comparing clerk shall at the same time inform the applicant that his application will not be considered complete and that the preparation of the copy will not be commenced until he has supplied in full the court-fee stamps and the necessary number of folios.

Note.—The entries in the different columns of Register No. (R) 23 as required by this and other rules in this Chapter must be made by the head comparing clerk contemporaneously with the various stages through which the application for copy passes before its preparation and delivery.

622. (1) After entering the application in the prescribed register, the head comparing clerk shall at once, if possible, or during the same day but not later than the following day, ascertain the amount of court-fee stamps payable for the copy applied for and the number of folios required for its preparation

(2) For this purpose the head comparing clerk shall forward the application by one of the copyists to the officer in whose custody the record is, who will at once note legibly or stamp thereon the name of his department and court, the date of receipt, signing his initials thereunder and enter it in a register to be kept in Form No. (R) 28, Volume II. He will refer to the document or record and with the assistance of the copyist or typist conveying the application estimate the number of folios required for each document of which a copy is required. He shall then enter the amount of court-fee stamps and the number of folios required in the space provided for the purpose on the application, sign and date it and return the completed application by the copyist or typist to the head comparing clerk. The document or record shall be kept in readiness for delivery to the copying department as soon as it is sent for for preparing the copy. If the document cannot be traced, the application should be so endorsed and the endorsement signed and dated.

Note.—This rule is not intended to allow copyists or typists the right of entry to record room, and they must in all circumstances be excluded therefrom. If the record from which copies are required is in the record room, the copyist should be shown the record in the Record-keeper's office, and should not be permitted to handle it himself more than is necessary to enable him to assist in making the computation provided for in this rule

623. The number of folios required should be carefully calculated so as to obviate the necessity for obtaining additional folios from the applicant, a contingency which under a proper system ought never to arise

624. Each clerk through whose hands an application for copies passes, shall put his initials and the date and hour of receipt and passing-on by him on the back of the application, in the space provided for the purpose and shall mention in the endorsement the name of the officer to whom he delivers such application. These entries should be made one below the other and must be legibly written.

630. (1) After making the proper entries in columns 9, 12, 13 and 14 of Register No. (R) 23 the head comparing clerk shall take the application or forward it by a copyist to the proper officer having custody of the record with an endorsement requiring him to make over the necessary document or record. Such officer shall immediately hand over the original record or document with the application noting thereon the fact of compliance and date and the head comparing clerk or the copyist receiving it shall sign and date, column 7 in Register No. (R) 28. The head comparing clerk will then at once make the necessary entry in column 11 of Register No. (R) 23.

(2) The person going round the offices to bring the original record or document under this rule shall take with him original documents or records of which copies are ready and return them to the proper officers who will make the necessary entries in columns 8 and 9 of (R) 28.

Note 1.—Only those papers of the record of which copies are actually required are to be sent to the copying department and in every case a removal slip shall be inserted in their place as laid down in Rule 535.

Note 2.—The person having custody of the record or document shall send it to copying department immediately on receipt of the requisition and there shall be no unnecessary delay. Cases of delay or negligence shall be brought to the notice of the Judge in charge by the head comparing clerk.

631. Immediately on receipt of the original papers, the head comparing clerk shall make them over to one of the copyists for the preparation of the copy and enter his name in the appropriate column of (R) 23.

Note.—The copyists must not start making copies before the requisite folios and stamps are realised in full.

632. Every copy of a deposition, judgment, decree, order, report, or other documents shall show in the margin, at the proper places the page numbers of the original within brackets.

633. Every copy of a judgment or order shall commence with a heading containing the name of the court and the name and official designation of the presiding Judge.

634. The head comparing clerk shall so distribute the work amongst the copyists that no copyist has more than one day's work in his possession at one time.

635. Every application for copies of depositions in a case which is being heard shall be laid before the trial Judge for such orders as he in his discretion may make. If such Judge so directs, so much of the deposition shall each day be given to the head comparing clerk as there is a reasonable hope of being copied in the course of the day. The head comparing clerk shall return the portion to the Judge at the close of the day.

636. If and when it is ascertained that extra court-fees or extra folios are required for copies, the amount of such court-fees or folios should be immediately notified in the prescribed register [(R) 26] and the procedure laid down in rules 626, 627 and 629 in so far as they are applicable shall be followed.

Note.—Every date on which extra folios are called for shall be shown after the copy is prepared in the proper space at the back of the folio.

645. It is of great importance that copies of documents issued by court should be absolutely free from error. The Judge in charge of the copying department should therefore from time to time examine the copies prepared.

646. The practice of making erasures by removing (*i.e.*, scratching out or otherwise effacing) words written or typed by mistake is strictly prohibited in regard to all copies. Instead of erasing the incorrect word, the word is simply to be struck through with one line by the pen and the correct word written above the word so struck through.

647. In the event of any copy being found to be unfit for issue by reason that it—

- (i) has not been clearly, legibly or neatly written or typed and with proper ink;
- (ii) is not in the prescribed form;
- (iii) is so incorrect that revision has rendered it unfit for issue;
- (iv) does not conform to the rules and orders of the High Court, or
- (v) is otherwise incomplete, defective or open to objection;

the examining or certifying officer shall report the matter to the Judge in charge of the copying department who will cancel the copy and require the copyist or typist to make a fresh copy at his own cost.

Note 1.—All copies, whether granted free of cost or on payment, should be written legibly with good ink

Note 2.—Pleaders or parties to whom copies are delivered should bring to the notice of the Judge in charge when copies are found to be inaccurate or not easily legible or printed from a worn-out ribbon

648. (1) All certified copies furnished by the court shall be certified to be true copies and shall be sealed with the seal of the court. The certifying officer shall initial every alteration and interlineation in the copy and shall also state the number of alterations and interlineations made therein. Each sheet should also be initialled by him. The certifying officer shall sign in full and append to his signature the words "Authorised under section 76, Act I of 1872"

Note 1.—Name in full must be written in own handwriting and *facsimile* stamp must not be used.

Note 2.—The words "Certified to be a true copy Authorised under section 76, Act I of 1872" may be impressed by means of a stamp

Note 3.—Certified copies cannot be signed "for" the head of a court or office. The officer authorised must certify the copy as true in his own name and with a statement of his official title as required by section 76, Evidence Act, and the Explanation thereto

(2) All certified copies must be signed, if not by the Judge in charge, then by the officer hereinafter mentioned:—

At the headquarters of a district—By such officer as may be appointed by the Judge in charge with the approval of the District Judge.

At out-stations—By the sheristadar of the Judge in charge.

work under the immediate supervision of the head comparing clerk, but the latter will be responsible for the proper performance of the duties in question.

655. As the copies required under each application are completed, they shall be made over together with all unused folios to the head comparing clerk, who shall attach the copies and all unused folios to the original application and note on the application the stamps and folios used.

656. The head comparing clerk will be responsible for all records and documents until they are returned.

657. All copies or information ready for delivery shall be entered day by day between 2 and 3 p.m. or in the case of morning sittings between 9 and 10 a.m. in a register (R) 27 which shall be placed in a convenient place for public inspection. As copies are delivered to the applicants the appropriate entries in the register will be struck out. The copies and any unused folios shall be delivered to the applicants between the hours of 3 and 5 o'clock in the afternoon and 10 and 11 o'clock in the case of morning sittings.

Note 1.—Loose forms of the above register may also be used for the purpose and posted up on the notice board. They shall remain there for three clear days other than holidays.

Note 2.—Distribution of copies and information slips and return of unused folios and stamps should as far as possible, take place in the presence of the Judge in charge, who may for the purpose fix any hour of the day convenient to him.

658. On the original applicant's appearing with and handing over the counterfoil, the head comparing clerk will make over to him the copy and unused folios after taking the applicant's signature and date in column 29 of Register No (R) 23 as also on the reverse of the application; at the same time column 28 of that register must be filled in.

659. (1) Should the applicant, in any case, fail to appear to claim either the copy or the unused folios (if any) before the last day of the month succeeding that on which the copy was ready for delivery, they shall be destroyed in the presence of the Judge in charge. The fact of destruction and the number of unused folios thus destroyed shall be noted in the remarks column of Register No. (R) 23.

(2) In any case in which copy is refused or cannot be granted, the folios and stamps supplied by the applicant should be returned to him when he is so informed. This should be done also where the application is withdrawn and the folios and stamps have not been used. Such stamps would not include searching fee and expedition fee affixed to the application.

660. Applications for copies which have been complied with shall be recorded in the copying department and filed in the order of their admission in a separate series for each month. At the close of each quarter they will be examined by the sheristadar, who will bring to notice any irregularity or unpunctuality that may be apparent in the department. The Judge in charge after satisfying himself as to the working of the office by an inspection of the forms recorded, will then direct their destruction.

CHAPTER 25.

COPYING DEPARTMENT AND COPYISTS AND TYPISTS.

662. At stations where there are more courts than one, there shall be but one amalgamated copying department. Of this department such judicial officer as the District Judge may nominate will be in charge, and the clerk appointed to be the chief examiner (otherwise known as head comparing clerk) will be the chief ministerial officer.

Note.—This rule does not apply to Small Cause Courts. (H. C. Proceedings for November 1884, No. 549.)

663. The copying department shall have as many copyists or typists as may be required for the purpose of supplying all applicants with copies without inconvenient delay.

664. No one but a licensed copyist or licensed typist is to be employed in the preparation of copies. Typists proficient in both English and vernacular typing and providing their own typewriting machines in English or vernacular should be given preference when fresh appointments are made.

665. (1) Copies of English documents shall invariably be typewritten and in making new appointments, no one except a typist shall be appointed.

(2) No person shall be employed for copying vernacular documents who is unable to copy both English and vernacular efficiently, legibly and with reasonable despatch and preference shall invariably be given to typists.

(3) Services of copyists and typists whose work is inaccurate or in other respects unsatisfactory on account of old age or other reasons should be dispensed with, and in any case no copyist and typist shall be retained in service after the age of sixty years. [See also, rule 661 (2).]

666. The number of licensed copyists must not be greater than will admit, under ordinary circumstances, of each copyist who is not a typist earning an average sum of at least Rs. 40 and of each typist earning an average sum of at least Rs. 65 per month. If the average earnings fall below this standard, steps should be taken to reduce the establishment by making no new appointments until that standard is reached. If practicable, a minimum of Rs. 50 for copyists and Rs. 80 should be aimed at. No new appointment should be made if such appointments would reduce the average earnings below the minimum.

Note.—No new appointment should be made until the average earnings have reached the higher standard laid down above [G. L. No. 8 of 1921] without the approval of the High Court being previously obtained (excepting the taking in to cope with sudden increase of work, of temporary hands, who should be discharged immediately the pressure is over). When applying to the High Court for an appointment, details of present earnings and other necessary data should be furnished [G. L. No. 2 of 1934].

674. If any material error or omission is detected in a copy by the person to whom it has been supplied or by any court before which it is filed for use, it should be promptly brought to the notice of the Judge in charge of the copying department.

Note 1.—Errors in copies brought to the notice of the Judge in charge should be corrected after comparison with the original and initialed

Note 2.—The Judge in charge should take such disciplinary action as he thinks proper against the head comparing clerk or the copyist responsible for the copy. The responsibility for incorrect copies is also shared by the officer who certifies the copy to be correct

675. Typewriters should give clear and easily legible impressions. Typists using old typewriters with worn out types which give indistinct impressions with irregular spacing of letters or words should be made to replace them by better machines.

676. When any application is made for the copy of a document in a language or character with which no copyist on the court's establishment is acquainted, the Judge in charge shall arrange, if possible, for a copy to be made thereof and compared with the original by such persons acquainted with the aforesaid language or character as are forthcoming and may in his opinion be relied upon for the purpose.

677. Half of the charge of 4 annas per folio, levied by means of impressed and adhesive stamps [*see* rule 611 (2)] represents the payment to Government, on account of the salary of examiners, and cost of materials, the remaining half will represent the earnings of the licensed copyists or typists whose accounts will be made up monthly, and the amount due to each paid out of contingencies. These payments must be checked at the time with the upper part of each stamp, which, when the copy is ready, must be torn off each sheet, along the perforated line, and then endorsed with the copyist's or typist's name and the serial number of the application, and kept till the end of the month. Care must be taken to see that nothing in excess of half of the amount realized in stamps is paid away.

Note 1.—Folio heads must not be torn off and billed for before the copies are actually ready for delivery. Folio heads which can be allowed to be detached should be marked with a date-stamp before they are torn off by the copyists and typists.

Note 2.—The copyist or typist is paid by the folio; he should get his remuneration according to the number of folios copied, whether the copies are subsequently taken out or not. (H C No 2163, Criminal, 1881.)

Note 3.—The number and value of the folios of copies delivered or ready for delivery up to the last date of the month as per Register of applications for copies should be totalled up at the close of every month and checked against the bills submitted by the copyists and typists, in order to see whether the two agree. Folios supplied during the month in respect of applications for copies which are not ready for delivery by the last date of the month, should be carried over in red ink to the beginning of the next month's page of the register, or the serial numbers of such items should be marked in red ink with a note in the remarks column in the same ink showing the unused folios and the month in which they are to be billed when copies are ready

Note 4.—The different columns for folios and stamps in the register should be carefully filled in at the proper stages indicated in the rules and a cross mark put into the columns remaining blank, all corrections being attested with dated initials. All the columns showing folios and stamps supplied, used and returned unused should be totalled up each month and it should be seen that the total number of folios supplied agree with those used and unused.

Note 5.—Expedition fees [rule 611 (2) (c)] are for credit to Government and no part of them is payable to the copyists or typists. Expedition fees should be entered in column 3 of Annual Statement I, Part III, Form (S) 10, Volume II. [G L. No 3 of 2nd March, 1881.]

PART V.—Fees and Costs including Rules and Orders under the Court-fees and Stamp Acts.

CHAPTER 26.

RULES UNDER THE COURT-FEES ACT RELATING TO FEES CHARGEABLE FOR SERVING AND EXECUTING PROCESS- ES, REMISSIONS, CANCELLATION OF STAMPS, ETC., ETC.

1. Process Fees.

680. The fees in the following schedule framed by the High Court under sec. 20 of the Court-fees Act, 1870, shall be charged for serving and executing processes issued by the High Court in its Appellate Jurisdiction and all civil and revenue courts in Bengal and Assam within the High Court's Appellate Jurisdiction:—

(1)—Fees chargeable in the High Court, Appellate Jurisdiction.

Article 1—

Rs. a.

In every case in which personal or substituted service of any process on parties to the cause is required, where not more than four persons are to be served with the same document, *one fee* 3 0

When such persons are more than four in number then the fee above mentioned, and an additional fee of 8 annas for every such person in excess of four 0 8

Provided that, in the last mentioned case, where such persons reside in the same or immediately adjacent villages, the additional fee may be such sum, not exceeding the amount of fee prescribed, as the High Court may, in the particular case, determine.

Provided also that, in analogous cases, where the appellant is the same, but the respondents are different, but reside in the same or immediately adjacent villages, the same rule shall apply.

Article 2—

Rs. a.

In every case in which personal or substituted service of any process on any persons who are not parties is required, when the number of such persons is not more than four, *one fee* 3 0

When there are more than four such persons, then the fee above mentioned for the first four, and an additional fee of 8 annas for every one in excess of that number 0 8

Nature of process	Amount leviable in—		
	(1) In courts of District Judges. (2) In courts of Subordinate Judges. (3) In courts of Munsifs and Revenue Courts, where the suit in which process is issued is valued at over Rs 1,000	In courts of Munsifs and of Small Causes and in Revenue Courts where the suit in which process is issued does not exceed Rs. 1,000 and exceeds Rs 50 in value	In courts of Munsifs and of Small Causes and in Revenue Courts where the suit does not exceed Rs 50 in value.
1	2	3	4
	Rs. a. p.	Rs. a. p.	Rs. a. p.
When there are more than four such persons, then the fees abovementioned for the first four, and an additional fee as mentioned in the table for every one in excess of that number	0 8 0	0 4 0	..
In every case falling within column 4 in which personal or substituted service of any process on any persons who are not parties is required, for each person to be served.	..	..	0 4 0
<p>Note.—No process-fee is chargeable for summonses on witnesses made over for service to the party applying therefor under Or- 16, r 7A, (i), C P Code (G L No 7 of 1929)</p>			
<i>Article 3</i>			
When process of attachment of property by actual seizure is issued—			
(a) for the seizure under the order of attachment	2 0 0	1 0 0	0 8 0
(b) for each man necessary to ensure safe custody of property so attached, when such man is actually in possession, <i>per diem</i> . (See, Note 1.)	0 8 0	0 8 0	0 8 0
<i>Article 4.</i>			
For the proclamation and publication of any order or prohibition under Order 21, r 54, C. P Code, irrespective of the number of such proclamations or publications	2 0 0	1 0 0	1 0 0
<i>Article 5</i>			
For the publication by posting up of a copy or copies of the notification of any proceeding or process, not specially mentioned in any article of this table, irrespective of the number of such publications.	2 0 0	1 0 0	1 0 0
<i>Article 6</i>			
For executing a decree by the arrest of the person or for executing a warrant of arrest before judgment	10 0 0	4 0 0	1 0 0

according to the rate specified in Article 3 (b) above. If such additional fees be not paid within the period in respect of which fees have already been paid before, the attachment shall cease on the expiry of the period.

(iii) When an application is made for the refund of custody fee, a report is to be called for from the Nazir showing the number of days spent for the coming and going of the officer, or when the officer was not left in possession, the time occupied by the officer going, effecting the attachment and returning. The balance of the custody fee, if any, after deducting the amount incurred as above, will be available for refund.

Note 2.—(i) The fee under clause (a) of Article 7 must be paid when the process is obtained

(ii) The percentage or poundage fee under clause (b) of Article 7 must be paid in court-fee stamps by the auction-purchaser (decree-holder or other person) as soon as his bid is accepted by the court and the sale is completed.

(iii) The percentage leviable under clause (b) of Article 7 shall be calculated on multiples of Rs. 25 (*i.e.*, a poundage fee of 8 annas should be levied for every Rs. 25, or part of Rs. 25 realized by the sale up to Rs. 1,000, and in the case of the proceeds of the sale exceeding Rs. 1,000, an additional fee of 4 annas for every Rs. 25, or part thereof, should be levied.)

(iv) In cases in which several properties are sold in satisfaction of one decree, only one poundage fee, calculated on the gross sale-proceeds, should be levied, 2 per cent. being charged on the gross sale-proceeds up to Rs. 1,000 and 1 per cent. on such proceeds exceeding Rs. 1,000.

Note 3.—For processes applied for and ordered to be executed as emergent, the fee will be the ordinary fee and half as much again.

681. Notwithstanding rule 680, fees for processes in execution of a decree or order for money shall be charged irrespective of the grade of the court issuing such processes and of the value of the original suit, according to the amount, including interest, if any, due upon the decree or order, that is to say, if such amount exceed Rs. 1,000 fees shall be charged under column 2 of table (2); if it be less than Rs. 1,000 and more than Rs. 50, they shall be charged under column 3 of table (2); and if it do not exceed Rs. 50, they should be charged under column 4 of table (2)

682. Notwithstanding Rule 680, no fee shall be chargeable for serving or executing—

- (1) any process, such as a notice, rule, summons, or warrant of arrest, which may be issued by any court of its own motion, solely for the purpose of taking cognizance of and punishing any act done or words spoken in contempt of its authority or of taking action under secs. 195 and 476 of the Criminal Procedure Code (1898);
- (2) any process issued a second time in consequence of an adjournment made otherwise than at the instance of a party or an intervenor;
- (3) any copy of summons, notice, order, proclamation or other process, posted in a court house or in the office of the Collector;
- (4) any order intimating postponement of sale, withdrawal of attachment or directing restoration of attached property to the person in whose custody it was or its replacement where it was found at the time of seizure;
- (5) any order directing an officer in charge of a jail to detain or to release a person committed to his custody.

(3) The fees leviable from the parties on account of boat-hire should be realised in court-fee stamps affixed on a separate sheet of paper containing the number, etc., of the case in which the fees are filed and the name, description and residence of the persons on whom the processes are to be served.

686. (1) In the localities which are not for the time being subject to rule 685, when, in order to the service of any process, the peon has to cross a ferry, then the amount, if any, legally exigible as toll shall be paid by the court executing such process from its permanent advance.

(2) The permanent advance mentioned in this rule is the special permanent advance sanctioned by the local Government for the purpose of the rules.

687. In cases in which the process is to be served in the jurisdiction of another Court, the proper fee chargeable under rule 680 read with rule 685 shall be levied, in the manner above directed, on the application for the transmission of the process to that court, and a note shall be made on the process stating that this has been done. A court which receives from another court, whether in the same province or not, a process bearing a certificate that the proper fee has been levied, shall cause it to be served without further charge.

Note 1.—The fees paid in pursuance of these rules must in all proceedings be deemed and treated as part of the necessary and proper costs of the party who pays them.

Note 2.—By arrangement between the Government of India and His Exalted Highness the Nizam of Hyderabad, civil processes for service or execution within His Exalted Highness's territories will be issued and served in accordance with the above rule

Processes issued by civil courts in His Exalted Highness the Nizam's territories will be served or executed in the Bengal Presidency and in Assam free of charge.

Note 3.—As regards the service of process and execution of decrees in the Chittagong Hill Tracts, *see* rules 74 and 26s

Note 4.—Processes issued by courts in India for service in Mauritius must be accompanied by a remittance sufficient to meet the cost of service. A sum of Rs. 32 is considered likely to cover such cost.

* In the case of a summons intended for service on a person in Mauritius, the procedure indicated in r. 25, Or. 5 of the Code of Civil Procedure should be adopted whenever possible in preference to effecting service through the Mauritius Government

2. Reduction and Remissions of Court-fees. (Orders by the Governors of Bengal and Assam in Council under section 35 of the Court-fees Act.)¹

688. Under sec. 35 of the Court-fees Act VII of 1870 as amended by the Devolution Act, 1920 (XXXVIII of 1920), and in supersession of all previous notifications under that section it is hereby notified that in exercise of the power to reduce or remit, in the whole or in any part of British India, all or any of the fees mentioned in the First and Second Schedules to the said Act, the Governors of Bengal

¹ Notification of the Government of Bengal, No. 1872 J, dated the 23rd May, 1921, and Notification of the Government of Assam, No. 4058 J, dated the 1st June, 1929

Particulars in regard to reductions and remissions of fees in criminal cases will be found in Volume I, Rules and Orders (Criminal).

Income Tax Act with respect either to liability to assessment or to the amount or rate of an assessment, or for a refund of income-tax under the Indian Income Tax Act, 1918 (VII of 1918);

(13) to remit the fee chargeable on an application presented by any person for the return of a document filed by him in any Court or public office;

(14) to direct that, when a part of an estate paying annual revenue to the Government under a settlement which is not permanent is recorded in the Collector's register as separately assessed with such revenue, the value of the subject matter of a suit for the possession or, to enforce a right of pre-emption in respect of, a fractional share of that part shall, for the purpose of the computation of the amount of the fee chargeable in the suit, be deemed not to exceed five times such portion of the revenue separately assessed on that part as may be rateably payable in respect of the share,

(15) to direct that, if the amount of the fee chargeable in any case involves a fraction of an anna, the fraction shall be remitted, except where otherwise expressly provided by this notification,

(16) to remit the fee chargeable on an application for the grant of a licence for the vend of stamps,

(17) to direct that no court-fee shall be charged on an application for the repayment of a fine or of any portion of a fine the refund of which has been ordered by competent authority,

(18) to remit the fees chargeable on applications for copies of documents detailed in clauses 4 and 13 *supra*,

(19) to remit the duty chargeable in respect of Indian Probates, Letters of Administration or Succession Certificates on the share or other interest of a deceased member of a company formed under the Indian Companies Act, 1913 (VII of 1913), provided that the said share or interest was registered in a branch register in the United Kingdom under the Indian Companies (Branch Registers) Act, 1900 (IV of 1900), and that such member was at the date of his decease domiciled elsewhere than in India,

(20) to remit the fees chargeable on applications presented to officers of land revenue for the suspension or remission of revenue on the ground that a crop has not been sown or has failed,

(21) to remit the fee chargeable on applications and petitions presented to a Collector or any revenue officer having jurisdiction equal or subordinate to a Collector for advice or assistance from the Agricultural Department of the province;

(22) (a) to remit the fees payable under Schedule II upon applications for the grant or renewal of licences or duplicates under the Indian Arms Rules, 1920, in respect of which a fee is payable under those rules, and

(b) to reduce to one anna all fees exceeding one anna payable under Schedule II upon other applications relating to licence or duplicates granted or renewed under the said rules;

(23) to remit the fees chargeable on applications for the grant of licences of the nature mentioned in items 8 and 9 of Schedule II appended to the Indian Explosives Rules, 1914, to possess gunpowder, other explosives or detonators required *bona fide* for blasting purposes.

(24) to remit as follows the fees on the property of any person subject to military law either under the Army Act (14 and 45 Vict., c 58) or under the Indian Army Act, 1911 (VIII of 1911), who is killed or dies of wounds inflicted, accident occurring or diseases contracted within three years before death while on active service in the Great War

(a) where the amount of or value of property in respect of which the grant of probate or letters of administration is made or which is specified in the certificate under the Indian Succession Act, 1925 (or in the certificate under Bombay Regulation No 8 of 1827) does not exceed Rs 50,000, to remit the whole of the fees leviable in respect of that property,

(b) where the said amount or value exceeds Rs 50,000, to remit the whole of the said fees in respect of the first Rs 50,000, and

(c) where any property passes more than once in consequence of such deaths, to remit in the case of second and subsequent successions the whole of the said fees irrespective of the value or amount of such property;

court-fee stamps in Bengal, in consequence of the abolition of impressed court-fee stamps in respect of fees up to Rs. 25, namely,—

- (1) In cases where the amount of fees is less than Rs. 25 and such amount can be denoted by a single adhesive stamp, such fee shall be collected by a single adhesive stamp of the required value. But if the amount cannot be denoted by a single adhesive stamp, or if a single adhesive stamp of the required value is not available, an adhesive stamp of the next lower value available shall be used and the deficiency shall be made up by the use of one or more additional adhesive stamps of the next lower values which may be required to make up the exact amount of the fee.
- (2) In cases where the amount of fees is equal to or exceeds Rs. 25 and such amount can be denoted by a single impressed stamp, the fee shall be collected by a single impressed stamp of the required value. But if the amount cannot be denoted by a single impressed stamp, or if a single impressed stamp of the required value is not available an impressed stamp of the next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional impressed stamps of the next lower values available, which may be required to make up the exact amount of the fee, in combination with adhesive stamps to make up fractions of less than Rs. 25.

Note.—The Assam Government also framed similar rules under powers conferred by secs 26 and 27 (b) of the Court-fees Act, 1870, as amended by the Devolution Act (XXXVIII of 1920) which were published with their Notification No 7865 G. J., dated the 22nd December, 1925. The Notification contained the following additional paragraph.—

When in any case the fee chargeable under the Act is less than Rs. 25, such fee shall be denoted by adhesive stamps and when the fee amounts to or exceeds Rs. 25 such fee shall be denoted by impressed stamps.

N.B.—Rule 19, Section II, Part II of the Bengal Stamp Manual, Volume I, which is reproduced below should be read in this connection —

“When the application for the required stamp is made to a licensed stamp vendor, and such vendor is unable to furnish a single stamp of the required value, he shall give a certificate to the effect to the purchaser. In making the certificate, such vendor must declare truly (1) that he is unable to furnish a single stamp of the required amount, and (2) that the number of sheets furnished is the smallest number that he can supply, so as to make up the required amount.”

• The following form is prescribed for the vendor's certificate mentioned in the rule above —

“Certified that a single stamp of the value of Rs. . . . required for this document is not available, and that the smallest number of stamps which I can furnish so as to make up the required amount is as follows.—

4. Cancellation of Court-fee Stamps.

690. Each judicial officer, should, under sec. 30 of the Court-fees Act, 1870, formally appoint an officer for the purpose of cancelling stamps. That officer who should ordinarily be the Bench Clerk shall personally attend to and be personally responsible for the strict fulfilment of, the duty of receiving documents to be filed, examining the correctness of the stamps attached thereto, and immediately cancelling such stamps as required by sec. 30 of the Court-fees Act. There is no objection to the ministerial officer appointed employing trustworthy subordinates to do the mere manual work of cancelling the stamps, subject to the approval of the Court; but it will be on the distinct understanding that that officer will be personally responsible for the

returned to him, a note of this having been done being made in the register and signed by the proper officer and the applicant.

Note.—Stamps affixed to affidavits presented to a commissioner for the purpose of administering an oath or affirmation to the deponent, should be dealt with in the same manner as the stamps on copies, certificates, or other similar documents liable to stamp duty.

694. Every judicial officer should make an occasional inspection of documents that have been filed in the records of pending and disposed of cases, in order to ascertain that the stamps have been properly punched and defaced, and have not been subsequently removed from the documents on which they have been used. It should also be observed whether proper court-fee has been realised in respect of plaints and other documents and processes. The inspection should be made at least once a quarter and the result recorded. The check herein prescribed applies equally to all papers which require adhesive labels, and they should be subjected to similar scrutiny.

695. The following is the Circular Order issued by the Board of Revenue, and referred to in rules 691 and 693 above.

I *Cancellation of stamps*—Local officers should direct their particular attention to the provisions of sec 30 of the Court-fees Act, VII of 1870, regarding the cancellation of stamps used under that Act. The personal responsibility of the officer who gives any order to see that the stamp affixed under Act VII of 1870 is punched before he takes action is clear from sec 30 of the Act, and must be enforced. The punch to be used by the receiving court or office must be round. The pieces punched out shall be immediately destroyed, so as to prevent their being fraudulently used.

II *Second punching by record-keeper* (Revenue Circular, February 1892).—The record-keeper of every court or office shall, when a case is decided and the record consigned to his custody, punch a second hole with a triangular punch in each label distinct from the first, and at the same time note upon the fly-leaf the date of his doing so. The second punching should not remove so much of the stamp as to render it impossible or difficult to ascertain its value or nature.

These directions apply only to adhesive labels used under the Court-fees Act. Impressed stamps used for denoting court-fees need not be cancelled or punched otherwise than as required by sec. 30 of the Court-fees Act.

III *Cancellation of stamps in copies.*—The Court or office issuing copies, certificates, or other similar documents liable to stamp duty shall, before issue, cancel the labels affixed to them by punching out with a square punch a portion of the label in such a manner as to remove neither the figure-head nor that part of the label upon which its value is expressed. As an additional precaution, the signature of the officer attesting the document, with the date, should be written across the label and upon the paper on either side of it, as is frequently done by persons signing stamped receipts. The stamp shall be punched at the time of attesting the document. An impression apparently exists that the hole, which is punched by the issuing Court or office in the stamp label affixed to copies, certificates, etc., under the preceding order, does away with the necessity for cancellation by punching out the figure-head under sec 30 of the Act by the court or office in which the copy or certificate, etc., may be produced or filed, but this view is incorrect, and it will be readily understood that the orders in question cannot override the express provisions of the Act.

5. Inspection of records by Registration Officers.

696. (1) Government having directed the Inspector-General and Inspector of Registration to examine record rooms of the various courts in the mufassal in order to ascertain that the rules for cancellation, custody and sale of stamps have been uniformly and properly carried out, every assistance should be afforded by judicial officers to such officers in the discharge of their duty.

CHAPTER 27.

MISCELLANEOUS COSTS AND CHARGES.*

1. Postage.

697. The Governor-General in Council has been pleased to direct that the postage charges on all processes, notices, and such other documents as are issued from any judicial or revenue court, and are required to be transmitted by post, shall be paid by means of service postage stamps, without any additional charge being levied from the parties at whose instance the processes are issued.

Note.—It is to be understood that processes thus issued should not be registered. If registered, they must be prepaid by stamp.

698. No fee for postage under Article 1-A, Schedule II of the Court-fees Act is leviable from any party when an outlying court has to call for its record from the District Record Room for disposing of a petition or proceeding which cannot under the law be disposed of without such record.

Note 1.—This rule has reference to connected records which the court itself has to call for in order to carry out its duties under the law, *e.g.*, for the disposal of applications under Or. 9, rr. 4, 9 or 13, Or. 21, r. 90; Or. 21, r. 95; Or. 47, r. 1; sec 174, B T. Act, and similar other applications.

Note 2.—In cases where Article 1-A, Schedule II, of the Court-fees Act is applicable, the records called for should be sent through post and their transmission should not be delayed till an opportunity of a peon travelling to the station in question on some other errand presents itself, provided that the latter method may be availed of if it is as expeditious as registered post.

699. Postage need not be paid by the parties (1) for the transmission and re-transmission of requisitions upon the District Court at the *sadar* station for the payment of money in deposit to decree-holders or other persons, (2) for the transmission of copies of decrees and certificates under secs 39 and 41 (Or. 21, rr. 4 to 6) of the Code of Civil Procedure from one district to another, for execution, or, (3) for transmission of writs and letters to arbitrators, receivers and commissioners. Such documents should be forwarded with *service labels*, no additional charge for postage being levied from the persons at whose instance they are sent.

700. A party applying for withdrawal of a case from a union Court to the Civil Court for trial under section 74 of the Bengal Village Self-Government Act, 1919, or to the District Judge's Court for revision under section 88 of the Act, shall be required to pay in the Civil Court or the District Judge's Court as the case may be, the fee prescribed by Article 1-A, Schedule II of the Court-fees Act (12 annas) in Court-fee stamps for transmission of the record and the union Court should be asked to send the record by "bearing post."

*For Process-fees, see Chapter 26.

(b) *Rates of travelling allowance.*—(i) When the journey is wholly or partly by rail, steamer, tram or public motor service, the witness's actual fare each way, according to the class by which persons of his rank and station in life would ordinarily travel.

Note.—In the case of a person drawing a fixed salary, in determining the class by which he should ordinarily travel, regard should be had to the standard of classification laid down in the Travelling Allowance Rules framed by the Local Government.

See also, Note 1 to sub-rule (7) (a) of this rule and the Notes to rule 132

(ii) When the journey is by any kind of conveyance by road, the actual reasonable conveyance charge up to a maximum limit of six annas a mile in the Presidency of Bengal, and eight annas in the Province of Assam.

Note.—The rates are maxima. In every case the court should consider the class to which the witness belongs and local conditions and allow reduced mileage allowance where the actual expenses are likely to fall short of the rates.

(iii) In districts where the usual mode of travelling is by water, the actual expenses that will be incurred for boat-hire up to a maximum of Rs. 2 a day.

(4) In addition to the above, the authorised charges for tolls at ferries shall be paid by the party applying for the summons to the extent to which such charges will be incurred.

Note.—For the purpose of ascertaining the amount of tolls to be deposited by the parties a table shall be prepared and kept in each court showing the distance of each thana from the *sadar* station and each outlying munsifi, the number of intermediate ferries to be crossed, the authorised rates of charges for tolls at each of such ferries, and the existence or absence of roads or waterways.

(5) In hill districts where it is customary for a respectable person to be accompanied by a man carrying his baggage, such person may, if summoned from a distance of more than five miles, be allowed the actual cost incurred for the hire of one coolie.

(6) If the court is of opinion that any witness following any trade or profession or engaged in any commercial undertaking will suffer substantial loss by reason of his attendance, he shall be given, in addition to the diet money and travelling expenses permissible under the preceding rules, compensation according to circumstances.

(7) Notwithstanding anything in the foregoing rules—

(a) When Government servants other than Experts of the Finger Print Bureau of the Criminal Investigation Department, are summoned to appear as witnesses in civil cases to which Government is or is not a party, whether in their official or private capacity, no costs on account of salary shall be realised from the party at whose instance they are summoned; but all sums received under these rules on account of their travelling and other expenses shall be paid in full to them, a certificate in the form reproduced as Form No (M) 33 in Volume II being at the same time granted:

Provided that Government servants whose pay exceeds Rs. 10 per mensem or whose headquarters are situated more than 5 miles from the court, shall draw travelling allowance from the department to which they are attached, and shall be granted by the Court only the certificate referred to above, when they are summoned to appear as witnesses, in their official capacity by either party and in their private capacity

Presidency and Assam. This charge shall be paid by means of a court-fee stamp, and will be credited to Government.

(2) No charge should be made in respect of the following affidavits.—

- (i) Affidavits, if any, made by process-servers deposing as to the manner of service of a process.
- (ii) Affidavits in proof of service or as to avoidance of service made by persons, if any, who accompany such process-servers.
- (iii) Affidavits made by public officers in virtue of their office.

(3) Fees realised in respect of affidavits under this rule should be shown in column 6 of the Daily Register of court-fees realised.

Note 1.—For form of Daily Register of petitions and Court-fees, *see* Register No (R) 13, Volume II.

Note 2.—Affidavits not under the C P Code or not connected with any case shall be charged for at Rs 2 under Article 4 of Indian Stamp Act (II of 1899).

4. Expenses of Commissions.

705. (1) Besides incidental expenses of commissions, the sums mentioned in the following table are, apart from exceptional circumstances, considered by the High Court reasonable remuneration as maxima. It is not, however, intended to fetter the court's discretion under Or. 26, r. 15, Civil Procedure Code, particularly in cases where superior expert knowledge is required and is available. If in any instance the payment of fees according to the table shall not appear to the court to be just and equitable, it may, for special reason to be recorded in the order, award a higher or lower fee than that therein prescribed.

(2) The scale is intended for cases where the work is likely to take only a day or two. When a consolidated fee is to be paid for work, taking some time, a considerable reduction in the rates specified below will ordinarily be desirable. These rates are maxima only rarely to be exceeded and they should not be applied indiscriminately to all classes of cases.

Nature of the Commission.	Classes of Commissioners	Maximum rate in courts of a—			Remarks
		District and Subordinate Judge	Small Cause Court Judge	Municipal	
1	2	3	4	5	6
1 For the examination of witnesses	Pleaders or any other person appointed as Commissioners	Rs a 10 0	Rs a 4 0	Rs a 4 0	For each sitting of six hours. Full fee may be allowed if the witness or witnesses are examined in less than six hours and also for any incomplete period when the examination lasts more than a day.

706. No general rule can be laid down for commissions to make partition, examine accounts, ascertain mesne profits or value of any property, etc., or other kinds of commission. In such cases the Court issuing the commission should fix a sum commensurate with the difficulty and importance of the work and the length of time that it might take. In suitable cases a reasonable sum in lump may be fixed as remuneration instead of a daily fee.

Note.—When a partition commission requires a knowledge of surveying and a survey passed pleader or other person with the required knowledge in surveying is appointed, he should be paid at the rate given in items (i) and (ii) of column 2 of the table in rule 705, page 286 (*see also* Note No 2 to that rule).

707. As a general rule, the amount to be allowed as incidental expenses should be regulated by the scale of travelling allowance prescribed for officers of Government of the class to which the commissioner belongs: but in exceptional circumstances, and if the commissioner is not a judicial officer, should the court be of opinion that his actual expenses cannot be covered by allowances calculated on this scale, it may, for reasons to be recorded, order such further sum to be paid as it thinks reasonable.

Note 1.—For the purpose of this rule, a commissioner should ordinarily be treated as a second class officer.

Note 2.—If the time spent in going to the place of investigation and returning therefrom comprises several days, the court may allow a daily fee for such period at any rate not exceeding the maximum halting allowance prescribed for second class officers under the Government Travelling Allowance Rules

708. Commissioners who are judicial officers are not entitled to fees, nor to any further remuneration than is permissible under the Government travelling and halting allowance rules. No other sum should therefore be demanded of the parties. The sum paid will be credited to Government, and the commissioner will recoup himself by drawing travelling allowance under the Fundamental Rules.

Note.—This rule also applies when a judicial officer goes for local inspection.

709. Judicial officers should bear in mind that a commissioner would be justified in refusing to execute a commission, if the party has not deposited cash sufficient to pay his fee as well as all his necessary incidental expenses. A commissioner's remuneration should be paid in cash, unless he is a judicial officer.

710. In any case in which the sum fixed for the expenses of the commission and paid into court shall have been calculated with regard to the time likely to be occupied in the execution of such commission, the court should instruct the commissioner that, in the event of his finding that the time fixed is insufficient, he should give timely notice to the party at whose instance the commission was issued, and at the same time, report the fact to the court giving an idea of the time the execution of the commission may further take. The sum necessary to cover the expenses for such further period as may be required to complete the execution of the commission as determined by the court should then be deposited in court by the party. If the additional deposit be not made within the time fixed by the court, the commissioner on receiving intimation from the court to that effect will suspend work and the trial should proceed without the commissioner's report.

711. If a commission for examination of witnesses be issued to a court, the expenses to be charged should include only the necessary

II. In the Courts of District and Subordinate Judges.

	Rs.
In Small Cause Court suits and miscellaneous matters and execution proceedings	4 to 10
In suits tried under ordinary procedure	8 to 32
In appeals	8 to 32

III. In cases where there are adult defendants as well as the minor and they appear by pleader, if such pleader be appointed guardian *ad litem* of the minor, the remuneration to be paid to him shall be half of what would have been paid to a pleader not appearing on behalf of other defendants.

IV. A pleader appointed by a court to be a guardian *ad litem* shall not incur any expenses on account of travelling without the leave of the court.

716. A ministerial officer when appointed by a court to be guardian *ad litem* of a minor or minors shall receive only his actual out-of-pocket expenses (*e.g.*, postal and stationery charges, etc.), properly incurred in the performance of his duties as such guardian. If he has to go to the locality for inquiry under the order of the court, he should get actual travelling expenses [*vide*, rule 703 (3) (b)].

CHAPTER 28.

LEGAL PRACTITIONERS' FEES.

Rules regarding the fees payable to legal practitioners framed under section 27 (c) of the Legal Practitioners' Act XVIII of 1879.

717. In suits for the recovery of specific property, or a share of specific property whether immovable or movable, or for breach of any contract, or for damages—

(1) If the amount or value of the property, debt, or damages decreed shall not exceed Rs. 5,000, at 5 per cent. on the amount or value decreed.

(2) If the amount or value shall exceed Rs. 5,000, and not exceed Rs. 20,000, on Rs. 5,000 at 5 per cent., and on the remainder at 2 per cent.

(3) If the amount or value shall exceed Rs. 20,000, and not exceed Rs. 50,000, on Rs. 20,000 as above, and on the remainder at 1 per cent.

(4) If the amount or value shall exceed Rs. 50,000, on Rs. 50,000 as above, and on the remainder at $\frac{1}{2}$ per cent.

Provided that in no case shall the amount of any fee exceed Rs. 3,000.

718. When such suits are settled, withdrawn, compromised, decided on admission of claim or dismissed for default, the fee shall not exceed one fourth of the fee calculated under rule 717 unless the court otherwise directs, subject to a maximum of Rs. 500.

719. Where such suits are decided *ex parte* the defendant not entering appearance or having entered appearance, not contesting, the fee payable shall not exceed one half the fee calculated under rule 717 unless the court otherwise directs, subject to a maximum fee of Rs. 1,000.

720. (1) In suits for injuries to the person or character of the plaintiff, such as suits for assaults or defamation, or for injuries to property, or to enforce rights, where the pecuniary value of such injury or right, cannot be exactly defined, as in suits for interference with a right to light or water, or to enforce a right of pre-emption, or suits for the partition of joint property, where partition is improperly resisted, and generally in all suits not included in rule 717, if the plaintiff succeed, the court may order the fee of the pleader for the plaintiff to be calculated with reference either to the amount decreed or according to the valuation of the suit, or according to such a sum, not exceeding the valuation, as the court shall think reasonable and shall fix with reference to the importance of the subject of the dispute. In any such case, the amount of the pleader's fee shall be calculated according to the scale in rule 717.

(2) In this and in the following rules, cases under Part III of the Land Acquisition Act, I of 1894, shall be deemed to be suits, and the

pleader may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated with reference to the value of the separate interest of such defendant, according to the scale in rule 717.

727. (1) In execution and miscellaneous proceedings, or for any matter other than that of appearing, acting or pleading in a suit prior to decree, the fee when allowed, shall not ordinarily exceed the following scale:—

	Rs.
In the court of a District or Subordinate Judge ..	150
In the court of a Munsif	50

Note 1.—When fee is allowed in an execution case an order should be recorded by the court stating the amount.

Note 2.—In miscellaneous proceedings, a special sum determined according to the value and circumstances of each case shall be awarded on account of the adversary's pleader's fee and the award of such sum shall be distinctly recorded at the foot of the order in the hand of the presiding Judge unless each party is directed to bear his own costs

(2) In miscellaneous appeals, or appeals from orders, except in cases where it may be ordered that each party shall pay his own costs, a specific sum shall be awarded as payable on account of the adversary's pleader's fee, and the award of such sum shall be distinctly recorded by the presiding Judge at the foot of the order, with the other costs, if any, incurred by the parties respectively.

Note 1.—This rule does not apply to Courts of Small Causes. *See* rule 738

Note 2.—For the purposes of these rules, cases under Part IV of the Land Acquisition Act, I of 1894, shall be treated as "miscellaneous cases," and the fees allowable to pleaders therein shall be calculated under rule 727. (*Rule No. 6 of 23rd March 1885*)

728. Fees in the hearing of interlocutory applications in suits are in the discretion of the court and if allowed, they shall not exceed the scale in rule 727.

729. If a review be rejected after summoning the opposite party, or if, after the admission of a review, the former judgment be upheld, the pleader's fee, if allowed to the successful party in the review, shall be fixed by the court at an amount which shall not in any case exceed one-half of the amount allowed by these rules in case of an original decree.

730. If, after the admission of a review, the former judgment be reversed, the fee of the pleader in respect of the review, if allowed to the party who succeeds in the review, shall not exceed one-half the amount allowed by these rules in cases of an original decree. The fee allowed in respect of the review will be irrespective of any pleader's fee which may be included in any costs, in respect of the original suit, which may be adjudged to the successful party by the judgment in review.

731. The amount to be allowed on account of the fee of an adversary's pleader in appeals shall be calculated on the same scale as in original suits, and the principles of the above rules as to original suits shall be applied, as nearly as may be, to appeals.

Note.—This rule does not apply to appeals from orders.

732. When the interest of several appellants is joint, not more than one pleader's fee shall be allowed, unless the court shall otherwise

PART VI.—Account Rules* (Judicial).

CHAPTER 29.

General.

740. The following rules prescribe the procedure for the receipt and payment of money, and for keeping accounts, to be observed by officers exercising judicial powers and dealing with money in that capacity. These rules do not apply to the High Court, or to the Presidency Small Cause Court. They apply to all Judges, Additional Judges, Subordinate Judges, Munsifs, and Small Cause Court Judges, and these are all included under the general term "Judge."

Note 1.—The rules apply to Judges of Small Cause Courts (other than the Sealdah Court) as if they were District Judges (*vide* rule 742), and not as if subordinate to District Judges. (Accountant-General's No. 279, dated 4th June, 1881.)

Note 2.—The Judge of the Small Cause Court at Sealdah has been exempted from these rules as there is no treasury at Sealdah, and the Judge keeps a small cash chest, rendering accounts to the Accountant-General direct. (Deputy Accountant-General's No. 183, dated 30th April, 1881.)

741. While the rules generally are applicable to all the officers just mentioned, a special procedure is laid down, where necessary, for courts not situated at or near a treasury or sub-treasury. Such courts are in the rules designated "out-stations," which term must be held to include courts at or near sub-treasuries during such time as the sub-treasuries may be temporarily closed owing to the absence of the Subdivisional Officer from his headquarters.

742. (1) In these rules the term "District Judge" signifies the officer whose accounts are rendered to the Accountant-General, either for his own court only, or for his own and subordinate courts. Any officer may be vested with the powers of a District Judge for the purposes of these rules; and in any district in which a District Judge is not for the time being resident, they shall be exercised by the principal civil judicial officer at headquarters.

Note.—Only one set of returns should be sent to the District Judge for the courts whose accounts are kept together, and not a separate set for each court. (Accountant-General's No. 141-A., dated 26th April, 1881.)

*These rules (framed under the Charter Act) are for observance by Judicial, Magisterial and all civil officers, not in direct account with the Accountant-General, in the receipt and payment of money. They were originally issued with Circular Order No. 4 of 5th March, 1881, and amended from time to time.

The account forms referred to in the rules will be found in Volume II, Appendix A-I, Nos. (A) 1 to (A) 33. The appendices at the end of the Part are intended for the guidance of officers in carrying out the rules.

Note 2.—Penalties levied on instruments not duly stamped under Chapter IV of the Stamp Act are credited to the major head "VII—Stamps" in the public accounts. The stamp duty is classified under the minor head "A Non-judicial duty on impressed documents" and the penalty under the minor head "B. Judicial fines and penalties". These are classified together in the courts' accounts under the sub-head (i) above, but the duty and the penalty must be separately shown in the chalan sent to the treasury in order that they may be credited separately under the above minor heads [See rule 847 (1)]

Note 3.—The sub-heads (ii) and (iii) are subdivisions of the same minor head "General fees, fines and forfeitures," under the minor head "XVII—Administration of Justice". The receipts under the sub-head (ii) are credited to the treasury with a chalan for each item and appear in the treasury accounts in detail (see rules 747 and 794). Under the sub-head (iii) are credited the fees of civil courts, forfeitures of earnest money of defaulting bidders and other general forfeitures and these are sent to the treasury with a single consolidated chalan every day. (See rules 776 and 794)

Note 4.—Proceeds of unclaimed property of intestates is credited under the sub-head (iv). District Judges' courts alone deal with the unclaimed property of intestates. The value thereof cannot be credited to Government until the time limited by law has expired (*vide* rule 848)

Note 5.—Under sub-head (v) are credited process-server's fees realised in cash, recoveries on account of pauper suits, and other items relating to cash realisation of court-fees

Note 6.—Under sub-head (vi) are credited all cash receipts of the record room, e.g., searching fees, copying fees, comparing fees and also all sums recovered on account of travelling and other expenses of Government servants deposited in court by the parties

Note 7.—Under sub-head (vii) are credited all miscellaneous receipts, e.g., sale-proceeds of forms and of old stores and materials and other items. The details of "other items" should invariably be furnished in the chalan sent to the treasury.

Note 8.—(a) (i) The cost of photographic enlargements of finger prints made by the Finger Print Bureau of the Criminal Investigation Department as well as the pay and fees of the Finger Print Expert, when summoned to give evidence at the instance of a private party, and (ii) the fee charged in each case in which an opinion is required of the Government Examiner of Questioned Documents or his assistant or when such officer is summoned to give evidence at the instance of a private party, shall be received in cash and dealt with as peremptory receipts. All sums so received shall, on receipt by the cashier, be forthwith paid in separately by him into the treasury to be credited to the Police Department in the case of (i) and to the Central Revenues under head "XXXV—Miscellaneous—Central—Other Fees, Fines and Forfeitures—Fees for the services of the Government Examiner of Questioned Documents" in the case of (ii). A chalan in triplicate shall be prepared and forwarded with the cash to the treasury. One copy of the chalan will be retained by the treasury, another copy returned by the treasury and kept in the court, and the third sent to the office of the Inspector-General of Police with a duplicate of the court's certificate in Form No (M) 33, Volume II, in the case of (i) and to the Government Examiner of Questioned Documents, Intelligence Bureau, Home Department, Government of India, with the requisition for the services of the Government Examiner of Questioned Documents or his assistant, in the case of (ii)

(b) The cost of police help in execution proceedings being receipts of the Police Department are to be received in the above manner and credited to the treasury under "XIX—Police"

Note 9.—All Government receipts shall without undue delay be paid into the treasury as laid down in Treasury Order No 7. No refund should be made in respect of receipts under the sub-head (vii) [see rules 789 and 790].

(B) Civil deposits.

Note 1. Any sum deposited in court under sec 379(1) of the Succession Act (XXXIX of 1925), with an application for a certificate or for the extension of a certificate must be classed under "Civil deposits"

Note 2.—See Note 4 to rule 759

Note 3.—For rent deposits under sec 61 (1) (a) and (b) of the Bengal Tenancy Act, 1885, see note 7 under head (C)

Note 4.—(a) When Government officers are summoned to appear as witnesses in civil courts in their official capacity in cases to which Government is a party, all sums recovered under Or 16, C P. Code, on account of their travelling and other expenses, should be paid into the treasury, a certificate of attendance only being given to them. When, however, the pay of the Government servants does not exceed Rs 10 per mensem or when their headquarters are situate within 5 miles of the court all amount recovered on account of their travelling and other expenses should be paid in full to them, a certificate of payment being at the same time granted

(b) When Government servants are appointed as commissioners or when they proceed for local inspection, all sums recovered on account of travelling allowance and fees already credited under this head should be withdrawn from the peremptory cash and remitted into the treasury with details of the name and designation of the officers. The Government officers concerned will draw their pay and travelling allowance from Government in the usual manner. The travelling and other expenses of clerks paid by parties for producing Government records should also be similarly dealt with

(c) Sums deposited by parties on account of travelling allowance to nazir for execution of a process, etc, should be credited to Government and the nazir should draw his travelling expenses by bill according to ordinary travelling allowance rules.

Note 5.—As regards money received for payment of postage and postage stamps received, *see* notes to rules 773 and 777

Note 6.—Landlord's transfer fees shall be received in cash and dealt with as provided in rules 375 to 388 (*See*, rule 383 in particular)

Note 7.—Rent deposits and costs of transmission received under sec. 61 (1) (a) and (b) and (2) of the Bengal Tenancy Act as modified up to 22nd February, 1929, shall forthwith be transmitted to the landlord by postal money order. The amounts remitted by money order, if refused by the payee or returned undelivered by the post office, shall be treated as "Civil deposits" and credited into the treasury as such under rule 745, head (B) above

Note 8.—For payments of sums received under head (C), *see* rule 752.

746. From the list of headings in rule 745 it will appear that the rules apply only to money received by an officer in his judicial capacity. They do not apply to local fund receipts and payments, nor to money received by way of permanent advance, or upon establishment or contingent bills (*see* rule 777).

Note.—As regards local funds there is a separate system of rules. In dealing with all Government receipts and with money received by way of permanent advance or upon establishment and contingent bills, a judicial officer should be guided by the Financial Rules of the Local Government and the Subsidiary Rules framed by them under the Treasury Orders.

747. The receipts and payments under head (B) of rule 745 must appear in the court's account in detail but in the treasury account in which a personal ledger account only is maintained for this head, the daily totals of receipts and payments made at the court and the individual items of receipts and payments at the treasury will appear. All receipts and payments under sub-head (1) of head (A) above must appear in the court's accounts and in the treasury accounts in detail. An account in detail of all receipts under sub-heads (i), (ii), (vi) and (vii) of head (A) must be kept in the court, but only the daily totals of each kind of receipts will appear in the treasury books. All receipts and payments under head (C) will be made on the responsibility of the cashier, whose security must be sufficient to cover any amount in his hands. They will not appear at all in the treasury accounts, but the balance in the hands of the cashier must be noted daily in

estates will be made at the treasury only, and not in cash, but by transfer to the credit of the personal ledger account of the estate concerned (*see*, notes to rules 778 and 785) Under head (C) payments will ordinarily be made in cash by the cashier on his own responsibility. No refunds should be made on account of sub-head (vii) of head (A).

753. Except in the case of courts at out-stations the whole cash balance must be remitted to the treasury (or to a branch bank, *vide* note to rule 801), as provided by rule 797 below, at the close of each day. At out-stations the entire cash balance must be so remitted on the last day of the month, and from time to time on such other days in the course of the month as may be convenient. Should, however, the cash balance at any out-station be less than Rs. 25 at the end of any month, the officer concerned may send a special report of the circumstances to the Collector of the district and keep the balance in hand for remittance during the following month. Under no circumstances shall the balance of cash in hand be allowed to exceed Rs. 500, unless the special permission of the court has been secured to accumulate the same up to a higher limit. In the case of munsifs of masonry construction provided with safes of approved make, the balance of cash may, however, be allowed to accumulate up to a limit of Rs. 1,000.

Note 1.—The expression “cash balance” or “the balance of cash in hand” means the balance of cash pertaining to heads (A) and (B) of rule 745 and excludes the amount of permanent advance, peremptory cash, establishment pay, etc. (Circular Order No. 15 of 1931)

Note 2.—For the purposes of this rule, the munsifs at Patiya and Satkania will be taken to be of *pucca* structure

754. If, after a remittance, and before further cash has come in, payments in cash are necessary, they should be made from the permanent advance

755. For the purposes of these rules in all courts the “day” must be taken to close at 2 p m, and the next “day” to extend from that hour to 2 p.m. of the following calendar day. Between 2 and 3 p.m. the accounts shall be made up, and no transaction shall take place in court. If any transactions have to be allowed after 3 p.m. under the law (*vide* rule 749) or under any special circumstances, they must be forthwith entered in the cash book bearing date, the next open day. The total of such transactions shall be shown in lump as “receipts after 3 p m” in the cash-reconciliation memo. of the day made under rule 777.

Note.—On the last working day of each month, or when the treasury closes at 1 p m, it is necessary that the accounts be closed at noon, and in this case the next day shall extend from noon till 2 p m of the following day

756. The “month” for the purposes of these rules, shall be taken to close, in courts at district headquarters, at the end of the last account day of the month; in courts at sub-treasuries, at 2 p m. on the day on which the accounts of the subdivisional treasury are finally closed for the month; and at out-stations, at 2 p m. of the last day, on which the accounts can reach the treasury in time for incorporation with the treasury accounts for the last day of the month

757. For the purposes of these rules, the “year” in all courts shall be taken to begin on the 1st April and to close on the 31st March.

CHAPTER 30.

RECEIPT AND PAYMENT OF MONEY.

1. Receipt of Money.

SUB-HEADS (i) TO (v) OF HEAD (A) AND HEAD (B) OF RULE 745.

Chalans required.

758. Payment of sums falling under sub-heads (i) to (v) of head (A) and under head (B) of rule 745 cannot be accepted either in court¹ or at the treasury, unless the money be tendered with chalans signed by the chief ministerial officer of the court under whose decree or order the money is tendered, and also by the accountant of the court or group of courts. When money is paid into the treasury, or under the sub-heads (i) and (ii) of head (A), into court, it should be tendered with chalans in triplicate, but in the case of payments into court under the other heads, chalans in duplicate only are required.

759. Any person desirous of paying money into court, or, in the case of collections made by any officer of the court, the officer who has realised the money, shall be furnished, free of cost, with the requisite number of forms of chalan [Form No. (A)1], in each of which he must enter in the vernacular or English the particulars required from him. One of the chalans, herein called the original chalan, shall bear the court-fee stamp (if any) required by law.

Note 1.—Money realised by a peon or the nazir of the court in execution of a process shall be paid with a single copy of chalan which shall be filed with the record of the case.

Note 2.—In the case of deposit chalans care must be taken to enter fully the nature of the deposit, the number of the suit or execution case (if any), the name of the person on whose behalf the money is paid in and of the person to whom it is to be paid over, etc.

Note 3.—No stamp is required for a tender of money which a party is bound to pay into court in the progress of a suit or to complete a purchase, or to deposit decretal amount under Or. 21, rule 1 (1), as the court cannot refuse the tender.

In cases where the payment is voluntary, such as deposits made on account of rent, or by a mortgagor and the like, a stamp should be required; but if the application or petition be duly stamped, a second fee should not be exacted for the chalan.

Note 4.—In the case of sums deposited under sec 379 (1) of the Indian Succession Act (XXXIX of 1925), the deposit chalans must show that the amount is deposited to the credit of the Judge.

Note 5.—(a) All payments into court for deposit under the Land Acquisition Act, 1894, shall be made by means of cheques drawn by the Land Acquisition Officer in favour of the presiding officer of the court to credit of civil court deposits. The transactions will be passed through the court's accounts in the same way as a deposit in cash.

¹For Supplementary Rules as to receipts under head (A). *see* rules 844 to 852.

²For rules regarding receipt of decretal amount, etc., remitted by money order, *see* rule 209 *et seq*

763. (1) The register and the chalans shall then be laid before the Judge in charge, and he shall initial each entry as he passes the chalans. If the money be paid into the treasury, the three chalans shall then be returned to the party tendering the money, and shall be his authority to pay the same into the treasury.

(2) When payment is made into court, one copy of the chalans shall be returned to the person paying the money as his receipt. This receipt shall be produced by him in court when it is necessary for him to have satisfaction entered upon the record of the case to which he is a party; or when it is necessary to have a sale confirmed or notices issued upon the landlord in cases of rent deposits, or upon the creditor in cases of debt due to a mortgage creditor, and the like. The other copy or one of the two copies of the duplicate or triplicate chalans shall be retained by the accountant, of which one copy shall be filed with the record of the case to which the person paying the money is a party, and the other copy in the case of receipts under the sub-heads (i) and (ii) of head (A) of rule 745 sent to the treasury with the pass book.

Note.—At subdivisions and out-stations, the Judge in charge may, with the previous sanction of the District Judge, delegate to the chief ministerial officer of his court the duty of passing chalans, but he will not thereby be relieved of his responsibility.

764. No person is required to take out a chalan till he is actually ready to pay in the money for which he takes it, but a chalan, once having been taken out, must be presented without delay. The order to the treasury officer must therefore be limited in its operation to the day upon which the chalan is made over to the applicant, or, if the transaction occurs after the accounts are closed (rule 755), to the next open day. This is distinctly provided for in the form of order. In case of failure to tender the money at the treasury within the time limited, the Judge in charge may extend the time if the cause shown by a written application is considered sufficient.

Note.—When a chalan is issued on the treasury it may be acted upon till 3 p.m. of the day following that on which it is issued, if so ordered by the court. But when the chalan is for the receipt of money at the court it should be restricted in its operation to the day of issue (*vide* Accountant-General's No. 452, dated 9th August, 1882).

765. In the case of out-stations, the order to the treasury officer shall be so dated as to allow sufficient time to the payee to reach the treasury, but not more time than is necessary for this purpose shall be granted.

SUB-HEADS (i) AND (ii) OF HEAD (A) AND HEAD (C) OF RULE 745.

766. Receipts under sub-heads (i) and (ii) of head (A) of rule 745 (searching, copying or comparing fees, sale-proceeds of forms and other receipts and sale proceeds of old stores and materials) when payable in cash, shall be tendered in the first place to the accountant, and noted by him in a special register [Form No. (A)15]. The accountant shall enter the name of the tenderer, the amount to be paid, and the number and date in the foil and counterfoil of the register, shall then detach the right-hand portion, and make it over to the tenderer for presentation with the money to the cashier.

771. In the case of payment slips the cashier shall countersign the slip, which the applicant is to retain as a voucher, and, when a copy has been applied for, his authority to take delivery of the same when ready.

772. When money is tendered under rule 767, the cashier shall enter the amount in a bound book of receipt forms [Form No. (A)23] numbered in serial order. Each receipt shall be in duplicate and the office copy shall be prepared simultaneously with the original by means of carbon paper. The original, which shall bear the same serial number as the carbon copy, will be torn off at the perforated line and presented to the payer as his voucher. Each bound book shall contain one hundred forms and before a book is brought into use a book number shall be given in hand on the front page of the book and attested with the dated initials of the Judge in charge. This number shall also be noted on every page before the number printed on it by machine. In case the foils and counterfoils are not used or are spoiled they shall be cancelled under the dated initials of the Judge in charge. No copy shall be torn off from the book. The nazir shall also certify on the first page of the book the number of forms it contains. A separate stock book shall be maintained in which the receipts of such books from the press and their issues to the cashier shall be properly accounted for. One book shall be issued to the cashier at a time who shall grant a receipt for it in the stock book. A new book shall be started from the beginning of each financial year, any unused pages of the previous book being marked "cancelled" and signed by the Judge in charge. The number of receipt books in stock shall be verified annually by a gazetted officer.

Note.—The receipt books and the stock book shall remain with the sheristadar or the accountant as the Judge in charge may direct.

Peremptory Cash Register.

773. To exhibit the peremptory receipts and payments [head (C) of rule 745], for which the cashier is responsible, and of which the accountant keeps no record, the cashier shall maintain a register in Form No. (A)24 in which such receipts and payments shall be exhibited in the appropriate columns. A balance shall be struck at the close of each day and the total shall be written both in words and figures.

Note 1.—Money received for payment of postage should be shown along with other peremptory receipts in the cashier's Peremptory Cash Register. (Accountant-General's No. 101-A, dated 26th April, 1931) As regards postage stamps received, see Note to rule 777

Note 2.—At the close of each day the accountant should check the totals of the Peremptory Cash Register, and examine the entries in that book with the counterfoils of the bound book which the cashier has to maintain under rule 772 and with all vouchers, receipts, etc., showing payment or expenditure. He should satisfy himself by such examination that all payments or expenditure are correctly noted against the original items of deposits, and initial the Peremptory Cash Register and each counterfoil and voucher, etc., in token of his having verified and found everything in order. The totals of receipts and expenditure of peremptory cash should be shown in the cash book under rule 774 after such verification by the accountant.

showing the amounts held on each account. The statement may be in the following form:—

	Rs. A. P.			
General cash balance
Peremptory cash balance
Balance of permanent advance as per Contingent Register and				
Establishment pay undistributed
Other Amounts (which should be explained)	
Receipts after 3 P.M.
Total Money in Cashier's possession	..			_____

Note.—Postage stamps received by way of remittance should not be mixed up with cash receipts. An account should be kept separately in the form of a *plus* and *minus* memo., the stamps being added as they are received, and deducted when they are sold or otherwise disposed of, and the balance in hand should be entered daily, as directed above, in the Cash Book.

2. Payment of Money.

Application for Payment.

778. (1) Persons desiring to draw money deposited in court under head (B) of rule 745 and payable to them shall submit to the chief ministerial officer of the court under whose decree or order the money was tendered, an application in Form No. (A)2 or, in the case of a rent deposit, in Form No. (A)3. One copy of such form shall be supplied free of charge. In this form the applicant shall enter all particulars necessary for the identification of the credit. Any number of deposits made in the same case may be withdrawn on a single application, but the number or date and amount of each deposit must be separately and clearly stated. A separate application must be made for deposits in separate cases.

Note 1.—The form of application should not be extended by pasting slips of paper.

Note 2.—If the party entitled to the money does not appear in person, the applicant must satisfy the court that he is duly authorised by an instrument in writing to draw the money for the person so entitled.

Note 3.—The applicant must comply strictly with the terms of the order under which the money is claimed. Thus, one of a number of joint decree-holders cannot be allowed to take out what he calls his share in the decretal amount, they must all join in the application unless there has been an order for distribution.

This note is not intended to prohibit the payment of the entire amount of deposit to one of a number of joint decree-holders or to one of joint land-holders on the certificate of the court under whose orders the money was received, that the amount is payable to him for himself and for all the others, whose names should be mentioned. What is intended to be barred is the payment of this amount in instalments to the several decree-holders separately, unless there has been an order for distribution. (Accountant-General's No. 45-T.M., dated 28th April, 1882.)

that the name of the claimant corresponds with the name of the payee entered in the register, and that no order for the attachment of the money has been recorded under rule 782 and is in force. If the deposit has been transferred to the Clearance Register (rules 831 and 832), such Clearance Register shall be deemed to be the Register of Deposit Receipts within the meaning of this rule and rules 784 to 787.

Note.—The chief ministerial officer will enter in the order sheet of the record of the case a note that payment order has been issued, so that a second claim for the amount may not be passed. This note should be signed by that officer and also by the presiding Judge.

780. If the record of the case has been despatched to the District Record Room under the orders of the High Court relating to the periodical despatch of records by subordinate judicial officers (rule 491) the presiding officer of the court to which the application is made, shall forward it to the District Judge, whose record-keeper will certify, under countersignature of that officer, that a specified sum of money is due to the applicant, and that no order for the attachment of the money has been recorded under rule 782. On receipt of such certificate, the chief ministerial officer of the subordinate court shall make enquiry as to the identity of the applicant, and, if satisfied of such identity, shall sign the certificate at the foot of Part I of the application and further deal with it in the manner prescribed by rule 779.

Note 1.—The application with the certificate shall be sent back by the record-keeper to the court from which it was received with as little delay as possible but not later than a week from the date of its receipt. It should be particularly impressed upon the record-keeper and his staff that applications must not be returned without the certificate on frivolous or flimsy grounds. If the particulars given are sufficient to identify a record or if there are means of finding out the record, it must be traced even though the description given by the applicant may in some respects be inaccurate. If an application is so defective that it cannot be dealt with under this rule, it shall be promptly returned with a note giving definite information regarding the particular defect or error.

Note 2.—The record-keeper will enter in the order sheet of the record of the case, a note that payment order has been issued, so that a second claim for the amount may not be passed. This note should be signed by that officer and also by the District Judge, or by such judicial officer at headquarters as the District Judge may appoint for the performance of this duty.

• **Note 3.**—See rule 699, regarding the postage for such documents.

Note 4.—If the amount certified by the record-keeper of the District Record Room does not agree with the amount stated in the application, the chief ministerial officer of the subordinate court should require the applicant, if satisfied with his identity, to submit an amended application on which the payment order may be issued.

Note 5.—For the purpose of this rule the term "record-keeper" includes the ministerial officer who may be placed by the District Judge in charge of the record room in an outlying station, where there is any (see, Note to rule 499).

781. Where the record connected with an application for payment order has been destroyed under the rules, the court may, in order to satisfy itself that the amount is due, require the applicant to file an affidavit in support of his application.

782. An order of attachment passed by any court on the money in deposit in a case in the same court or in another court, shall, on communication, be forthwith recorded on the order sheet of the case or proceeding concerned under the signature of the presiding Judge of that court and also against the corresponding entry in the Register of Deposit Receipts under the signature of the Judge in charge.

form, duly filled in in favour of the treasury officer who keeps the account for the amount less money order commission, must accompany the application) to "pay as above by transfer credit to post office in order that the amount may be remitted, less money order commission, to the treasury officer, , for credit to the personal ledger account of Wards estate ."

786. When the money sought to be withdrawn is in deposit, not in the court to which the application is made, but in another court,—as for example, where two or more courts at one station are combined for the purposes of accounts,—in every such case the duty of the court to which the application is made shall be merely to receive such application and forward it to the court which holds the deposit, for examining the record of the case and furnishing a certificate as provided in rule 779, that the applicant is the proper party to receive payment of the amount claimed. In any case in which the amount has been transferred from the credit of the original payee to that of the claimant this fact should be stated. This certificate shall be compared with the Deposit Register in the office of the Judge in charge. Such register, if the sum is shown therein to be in deposit, will inform the Judge whether there is any bar to payment. If there is no such bar, the payment order may be issued by the Judge in charge, and the fact of its issue shall be communicated to the court upon whose certificate the application was passed, in order to enable it to enter satisfaction for the amount upon the record of the case.

Note 1.—The certificate should be given on the payment order, that is to say, in the tripartite Form No (A) 2, Vol II, at foot of Part I, in the place intended for it and the Note to rule 779 observed, and in recording the payments in the Register of Repayments, particulars may be entered as to the court under whose orders the payments have been made (Accountant-General's No 331-T B, dated 5th September, 1881, read with his No 42-T M, dated 28th April 1882.)

Note 2.—When money realised under the decree of one court is attached at the instance of another court, the application for payment should be made to the court attaching the money. Such court, after receiving the application, should forward it to the court which holds the money, and if there be no objection to the payment of the money to the applicant, the latter court should deal with it under this rule, or, if the record of the case has been despatched to the District Record Room, under rule 780. The court so dealing with the application should also report to the attaching court, or, if the application has been dealt with under rule 780, also the District Court, that the amount claimed has been transferred from the credit of the original payee to that of the claimant.

Note 3.—When monies in different cases realised under the decrees of one court, are attached at the instance of another court in a single case, in case of the withdrawals of the amounts so attached, separate applications should be made.

Lapse of Order.

787. (1) An order for payment from the local treasury is valid for ten days only, and may not be cashed after the expiry of ten clear days subsequent to the date thereof. An order which has not been paid within ten days as aforesaid may be presented to the court which issued it, and such court may re-enface thereupon a new payment order, which shall remain valid for ten clear days immediately after the date thereof. When the last day of any such period of ten days is a day on which the treasury is closed, the order may be cashed on the day on which such treasury re-opens.

Note.—An order for payment of money at the court should be restricted in its operation to the day of issue. And when money is to be paid immediately, the order of payment should be issued on the cashier of the court (*vide* Accountant-General's No 452, dated 9th August 1882)

790. (1) Application for the refund of the value of court-fee stamps is to be made to the chief ministerial officer, who shall compare the application with the record, and if he finds that a refund is due, shall draft and sign an order on the back of the paper to which the court-fee stamps are affixed. The papers must then be passed on to the accountant, who shall prepare a payment order in Form No. (A)6 or No. (A)7, as the case may require, and shall enter the particulars in the Register of Payment Orders [Form No. (A)16]. The application with the other papers and the register shall then be laid before the judicial officer, who, if satisfied that the proceedings are in order, may sign the order of refund on the back of the stamped paper and the payment order, and initial the entry in the register. The payment order shall then be made over to the applicant for presentation at the treasury, or, if the amount do not exceed Rs. 5, to the cashier of the court.

(2) If the record has been despatched to the District Record Room, the application for refund shall be forwarded by the presiding officer to the District Judge and it shall be dealt with by the record-keeper in the same way as the chief ministerial officer of the court.

Note 1.—Entries in the Register of Payment Order [Form No. (A) 16] in the case of refunds of court-fee stamps must be made in red ink.

Note 2.—Petty refunds of the value of court-fee stamps may be paid out of cash in the court on vouchers in Form No (A)7 and charged in the cash book (*see*, Notes to rule 774)

Note 3.—Court-fees realised in stamps (*e.g.*, unspent process-fee, custody fee, costs of transmission of record, etc.) may be refunded by order of the court on the application of the party concerned when the amount has not been spent or processes, etc., have not issued. In order to prevent delay and facilitate the making of refunds it is desirable that such applications should be made as early as possible and before the connected records are despatched to the District Record Room

Note 4.—Applications for the refund of the value of Court-fee stamps on account of unspent process-fees, etc., need not be stamped [*vide* s 19 (xx) Court-fees Act]

Note 5.—In any exceptional case in which the paper to which the court-fee stamps are affixed has been destroyed under the rules for the destruction of records (*see*, rule 552), the court authorising the payment should satisfy itself that the amount claimed is due, and record the order for refund on the application, which may be filed. In cases of this nature, it is objectionable to record a copy of the refund order in Form No (A)7, for it is an order upon the treasury, and there is risk of its being presented for payment (Accountant-General's No. 561, dated 21st August, 1881)

Note 6.—The procedure laid down in this rule is for the refund of court-fee stamps when application for such refund is made to a court which keeps its own accounts (*see*, rule 750) Accountant-General's No. 324, dated 16th June, 1881.

Where there are two or more civil courts at one station, the Judge in charge, *i.e.*, the officer in whose court the combined accounts of all the courts at the station are kept, should sign the refund order (Accountant-General's No 155-A, dated 30th April, 1881) and initial the register of payment orders.

791. In so far as the accounts system is concerned, it is invariably necessary to trace each item of payment under the court's orders back to its corresponding item of receipt, in other words, to connect each item of a court's debit in the treasury with the corresponding item of credit, however far in time the two may be separated from each other. Accordingly the court must take care to furnish itself and the treasury with the necessary particulars for this purpose

CHAPTER 31.

ACCOUNT-KEEPING, REMITTANCE AND DEPOSIT REGISTERS.

1. Account-keeping.

Courts near Treasuries.

793. In courts situated within daily reach of a treasury, the accountant shall, after the close of business each day, make the proper entries in the Treasury pass book [Form No. (A) 17], showing in detail the sums received from and paid to the public in cash. The receipts shall be entered on the right-hand side, and are to consist of the sums entered in column 5 of the first part of the Register of Chalan [Form No. (A) 14] headed "Amount received in court." The payments shall be entered on the left-hand side, and are to consist of the sums shown in column 5 of the Register of Payment Orders [Form No. (A) 16] headed "Amount cashed in Court."

Note.—The remittances to the treasury at the close of each day, as well as each payment to the public, must be entered in column 3 of the form of pass-book No (A) 17. To facilitate the calculation of the amount to be remitted to the treasury at the close of each day's business, two lines are provided in the form, one to show the total of receipts and payments at the court, and the other, the total for the day according to the receipt and payment sides. The receipts and payments at the court being first entered and added up, the difference between the total of receipts and that of payments will, if the receipts exceed the payments, be entered on the left side as remittance to the treasury, or if the payments exceed the receipts on the right side as remittance from the treasury. The total for the day will then be made up for both sides which will agree together. The number of the chalan or payment order, on the back of which the amount to be remitted to, or received from, the treasury is noted (*see*, note to rule 797) may be shown against the entry made below the total of payments or receipts, but the head of account need not be noted in the pass-book against the entries, nor need the entries be initialled by the treasury officer.

794. Every chalan recorded in the first part of the Register of Chalan and every payment order for money received or paid at court under heads (A) and (B) of rule 745 shall be shown in detail in the pass book, and the head of account shall be noted against each, so as to enable the treasury officer to bring the transactions in detail upon his books and classify them correctly.

Note.—It is necessary to show in the pass book the totals only of each chalan and payment order. Each chalan may contain any number of items, provided they belong to the same head of account.

Examination by Judge in charge.

795. The Judge in charge shall examine the accounts by comparing (1) the registers of Chalan and Payment Orders (amounts received

in charge should forthwith make an investigation and get the discrepancy reconciled. The Judge in charge shall certify that the total of the list tallies with the actual cash balance.

Note 1.—All unpaid amounts of peremptory receipts which were received during the financial year preceding the year which has ended, shall on the 1st of April be transferred to civil deposit in the manner prescribed in this rule.

Note 2.—If for any special reason, *e.g.*, on a sale day, the amount of cash balance in the cashier's hand exceeds Rs. 5,000 in the district headquarters and Rs. 2,500 in other stations, special arrangements should be made for guarding the cashier's strong room.

Note 3.—The total of the peremptory cash in the hands of the cashier should always agree with the total of all the items of peremptory receipts appearing in the peremptory Cash Register as neither paid or refunded nor transferred to civil deposit. If at any time the totals are found to disagree, the Judge in charge should forthwith make an investigation.

Note 4.—Applications for payment orders for refund of unspent amounts in the peremptory cash transferred to civil deposit need not be stamped with any court-fee.

797. (1) Having initialled the accounts of the day and signed the cash book, the Judge in charge shall send the pass book to the treasury (or to a branch bank, *vide* note 2 to rule 801) together with the net amount in cash, and a single chalan for the total receipts under civil court deposits, and separate chalans for receipts falling under the sub-heads (z) and (ii) and consolidated chalans for the receipts under each of the sub-heads (iii) to (vii) of head (A) in rule 745, as well as all payment orders. This remittance must be entered in the cash book as a payment of the day on which it is made. Separate chalans received from parties in respect of deposit receipts and receipts under the sub-heads (z) and (ii) of head (A) should be retained in the court.

(2) It is important that this be done before the business of the new day commences, and the cashier should have in hand, after each such remittance, only the balance of the peremptory cash transactions and the other balances referred to in rule 777.

Note.—The total of chalans of the day for money received in cash by the court, *minus* the total of payment orders cashed, at the court, will represent the balance of cash to be remitted to the treasury. The amount so remitted will be noted on the back of the last chalan entered in the pass book [Form No. (A) 17], in order to avoid the separate chalan which otherwise would be required by the treasury officer.

Courts not near Treasuries.

798. At out-stations, the cash book shall be balanced as prescribed above, and the balances, both that of the receipts and payments under heads (A) and (B) and that of peremptory transactions, shall be carried forward to the next day's account. The accounts shall be balanced, compared, and signed every day in the manner prescribed in rule 795, save that instead of comparing the Treasury pass book with the accounts, the Judge in charge shall see that the court balances are brought forward, and shall ascertain that the money is actually in possession of the cashier.

Periodical Remittances.

799. On the day fixed by the District Judge for closing the accounts of the month (*see*, rule 813), and from time to time as occasion may arise (*see*, rule 753) the Treasury pass book shall be made up, showing all receipts and payments at the court since the last remittance to the

Treasury Advice List.

804. At the close of business each day, the treasury officer, whether sadar or subdivisional, shall prepare Advice Lists, in Form No. (A) 9, of all such chalans and payment orders of each Judge in charge as have been brought upon the treasury accounts in the course of the day, and shall forward them to such Judges in charge respectively together with the chalans referred to in clause (2) of rule 769. In these lists shall be entered in detail such chalans and payment orders as have been received or paid at the treasury or sub-treasury in cash while those brought into the treasury account from the pass book (rule 797) shall be included in a single total on each side, with the description "as per your pass book dated——."

Note 1.—The despatch of daily Advice List from the treasury should be insisted upon by the Judge in charge and any delay in the matter or non-observance of this rule should be promptly brought to the notice of the authorities.

Note 2.—If the court is close to the treasury, so that the Judge's registers referred to in rule 806 can be sent daily to be compared and initialled by the treasury officer, this procedure may be adopted in lieu of the daily Advice List, if found more convenient.

805. The list prepared at the sadar treasury for the District Judge shall include, besides the moneys received and paid on account of the Judge's own court, those transactions also which belong to his subordinate courts. These amounts, however, need not be entered in detail but may be included in a single total of receipts and of payments for each court, including pass book transactions brought into account.

Comparison by Judge.

806. On receipt of this Advice List, the Judge in charge shall cause the particulars of the chalans and payment orders shown in it to be compared with the details recorded in his Registers of Chalans and Payment Orders [Form No. (A) 14 and No. (A) 16], and shall further cause the date of actual credit and payment, as certified by the treasury officer, to be entered in the column prescribed for that purpose.

807. These entries must be initialled by the Judge in charge when he checks the posting in the Deposit Registers, as prescribed in rule 809.

3. Deposit Registers.**Separation of Petty Deposits.**

808. Two Registers of Deposit Receipts shall be kept in Forms No (A) 18 (i), (A) 18 (ii), and two of deposit repayments in Forms No (A) 19 (i), (A) 19 (ii). One of these shall be termed the Register of A deposits, and there shall be entered therein all deposits originally exceeding Rs. 5. The other shall be termed the Register of B Deposits, and there shall be entered therein all deposits not originally exceeding Rs. 5. Both registers shall be kept in the same form and shall be posted in the same manner, but with separate series of numbers (see next rule), distinguished by the initial letters A and B, respectively

(2) Care must be taken to make the final remittance to the treasury in such time that it may be entered in the accounts of the treasury for the month to which it belongs.

(3) In each of the Registers of Deposit receipts prescribed by rule 808, a *plus* and *minus* memorandum must be drawn up at the end of the month's entries in the following form:—

Balance of deposits from last month	..	..	..
Received during the month, as per register	..	..	..
				<hr/>
		Total	..	
Repayment, as per register	..	..	..
				<hr/>
Balance of Deposits at end of month	..	..	..	<hr/>

CHAPTER 32.

CONTROL OVER COURTS, RETURNS AND LAPSED DEPOSITS.

1. Control over Subordinate Courts.

Responsibility.

814. Every Judge is responsible for all payments of deposits made on his certificate or under his orders. In the case of receipts and payments of petty or B deposits no detailed check is exercised over his proceedings, the accounts which he is required to render of these showing totals only. In the case of A deposits, however, all sums received, and not paid out during the month in which they have been received, and the balance of such of these deposits as have been partly paid out, must be reported to the District Judge, and must be included in that officer's accounts, and in his return to the Accountant-General.

Note.—If the District Judge thinks it absolutely necessary, he may delegate the duty of passing chalans to the chief ministerial officer of his court, and place any of the officers subordinate to him in charge of accounts, in the same way as a Deputy Collector is placed in charge of a treasury, but on the distinct understanding that the District Judge will not be relieved of the responsibility for the due accounting of all money received and paid. All returns will be signed by the District Judge. (Accountant-General's No 141-A., dated 26th April, 1881)

Daily Return of Subordinate Court.

815. Every day, after the Treasury Advice has been received, and the Deposit and other registers have been written up and checked with it, two statements showing the transactions of the date to which it refers shall be prepared by the Judge in charge and forwarded to the District Judge. The first of these statements [Form No. (A) 10] shall show the total amount of the entries in the Deposit Registers and the totals of all other transactions brought on the registers (see rule 851). The second shall be an extract from Part I of the Register of Deposits Repaid [Form No. (A) 19], giving the particulars of repayments on account of deposits received during previous months. At the foot of the first statement the Judge in charge shall certify "that he has examined the Registers of B Deposits and found them to be written up to date and to be in order"

Note 1.—It will be observed that these returns are intended to exhibit actual receipts and payments, and that they are therefore to be compiled from the Deposit Register, and not from registers of chalans and Payment Orders.

Note 2.—The subordinate courts referred to in rules 814 and 815 are those which keep their own accounts and the accounts of other courts as well, *vide* rule 786 (Accountant-General's No 141-A, dated 26th April, 1881)

Note 3.—The advices of the payments of deposits appertaining to the subordinate courts at the sadar station should be issued from the District Judge's court (Accountant-General's No. 141-A, dated 26th April, 1881)

Note 4.—The certificate referred to in this Rule is not required from Small Cause Court Judges, as they are not subordinate to District Judges in the matter of accounts (Accountant-General's No 279, dated 4th June, 1881)

Posting Repayments of A Deposits.

821. (1) Taking up next the detailed Daily Register of Deposits Repaid [Form No. (A) 19], the repayments must be posted against the corresponding entries in the Judge's Daily Register of Deposits received [Form No (A) 18], and must be initialled by the District Judge, or, under his orders, by the chief ministerial officer of his court in the same manner as repayments authorised by himself. They must also, at the same time, be copied into his Register of Deposit Repayments [Form No. (A) 19].

(2) As each payment is noted in the Judge's register, the district number (rule 825) against which the payment is charged must be noted in the subordinate court's return.

Note.—In noting the repayments, care should be taken to see that the amounts thus reported as repaid are actually repayable, and that amounts which should be credited to Government are not repaid to individuals.

Monthly Return.

822. (1) At the end of the month there shall be furnished by the subordinate courts to the District Judge a statement of all A deposits received, but not wholly repaid during the month. This statement will be an extract from the Register of Deposit Receipts [Form No. (A) 18], omitting the items which have been wholly repaid during the same month. Of deposits received and partially repaid in the same month the unpaid balance only is to be shown in this statement. The dates of despatch from the subordinate court and of receipt by the district court shall be noted on this statement.

Explanation—An A deposit, the balance of which has been reduced below Rs 5 by a payment made in the same month, is to be included among the A, and not among the B deposits.

(2) On the 31st March of each year the subordinate courts shall, in addition, submit to the district court a certificate that all uncashed orders to be cancelled under rule 787 (3) have been marked off in their Registers.

Plus and Minus Memorandum.

823. There shall be appended to the monthly statement of deposit receipts a *plus* and *minus* memorandum in the following form:—

Balance of last month—	Rs. A. P.			
Amount of A deposits received during the month—				
Repaid during the month .. .. .	..	..	..	..
Not repaid during the month .. .. .	..	..	..	..
Amount of B deposits received during the month—				
Repaid during the month .. .. .	..	..	..	..
Not repaid during the month . . . . .	..	..	..	..
Total	..	..	..	..

civil courts at the sadar station. The District Judge will also number the deposits in the subordinate courts' return in continuation of his own series.

Note.—The District Judge should examine the receipts, so as to see that no item has been improperly held in deposit, and if he finds amounts so held which should be credited to Government, he should direct the subordinate court accordingly.

826. The District Judge's Registers of Deposits exceeding Rs. 5 received and repaid thus include each month not only those of his own court, but also of all subordinate courts, excepting only the sums received and repaid in such courts during the same month.

2. District Monthly Returns of Deposits.

Returns of Deposits Received.

827. On the 12th of each month an Extract Register of Deposit Receipts exceeding Rs. 5 shall be prepared by the District Judge in Form No. (A) 13, and forwarded to the treasury officer for transmission after a comparison with his cash accounts, to the Accountant-General. This extract register will be a copy of the entries made during the month in his register [Form No. (A) 18], and will contain all such items of more than Rs 5 each as were deposited in his own court and in courts subordinate to him, omitting all those which were wholly repaid during the month, and showing, in the case of those partially repaid during the month, the unpaid balance only. The sadar court entries should appear first, then,—after a line or break,—the entries of each subordinate court separately headed by the name of the subordinate court. At the foot of this register, deposits received and repaid during the month and deposits received for sums of Rs. 5 each and less, are to be shown in separate totals for each court without details. This extract register should be despatched punctually on the 12th of the month, unless in the case of the larger districts a later date is fixed. The whole of the entries for each court should be consecutive and separated from those of the other courts by a space and heading.

Returns of Deposits Repaid.

828. A monthly extract from his Register of Deposit Payments [Form No (A) 19] of sums above Rs. 5 shall be forwarded in the same form by the Judge to the treasury officer for transmission, after comparison with his lists of payments, to the Accountant-General. The District Judge shall include in this extract (1) the details of repayments on account of deposits of previous months, whether made in his own court or entered by him from the statements of subordinate courts (rule 819); (2) a single total for each court of the repayments of the current month's deposits, whether made at the district or subordinate courts, which must agree with the total of receipts on the same account; (3) the totals for each court of the repayments on account of deposits Rs 5 and less received during the year of account and the year next preceding.

Plus and Minus Memorandum.

830. (1) A *plus* and *minus* memorandum in the form prescribed in rule 823, but including the figures of the subordinate courts, as well as those of the District Judge's own court, shall be appended to the statement of deposit receipts.

(2) This *plus* and *minus* memorandum is to show as repayments the actual repayments at the treasury, and is further to show the treasury balance outstanding

Note.—It will be found convenient to keep in a separate register a copy of this *plus* and *minus* memorandum, with further memoranda of the details from which the figures have been arrived at. It is important that there should be no difficulty at any time in reconciling the figures of the court with those of the treasury.

3. Annual Clearance Register of Deposits.¹**Clearance Register.¹**

831. (1) At the end of each year the Registers of A Deposits received in the next preceding year shall be closed by transcribing into the last column, headed "Transferred to Clearance Register," every balance which exceeds Rs 5. An annual Clearance Register shall then be drawn up in Form No. (A) 20 showing all these balances against their original numbers—showing, in other words, all the unpaid balances of A deposits of the preceding account year next but one. For example, the Clearance Register of April 1923 will show all unpaid balances of A deposits received in 1921-22.

(2) Of balances which do not exceed Rs. 5, a separate list shall be made out under rule 838 below.

832. The items in this account having been carefully compared with the corresponding balances in the original Register of Deposits received [Form No. (A) 18], the last named document shall be laid aside, and future repayments recorded only in the Clearance Register.

Note.—If against any of the items transferred to the Clearance Register, a repayment order has been issued and cancelled under rule 787 (3), a note to that effect must be made in the Clearance Register, so that, if application for repayment is again made, an order may not be issued without recalling the original cancelled one

Return by Subordinate Courts.

833. A copy of the Clearance Register shall be sent by the subordinate courts to the District Judge, and by him carefully compared with the entries in his Register of Receipts. Any discrepancies found must be investigated and corrected.

Return by District Judge.

834. The clearance register of the District Judge necessarily includes the items in the several Clearance Registers of the subordinate courts, and a copy of it shall be sent to the Accountant-General. The

¹The words "Clearance Register," wherever they occur in these rules, were substituted for the original words "Account Particulars" by H. C. Progs., February 1893, No. 407.

(2) of B deposits, the balances of all deposits outstanding over one complete year, that is, the balances which, in the case of deposits over Rs. 5, are transferred to Clearance Register under rule 831; these are to be marked off in the last column of the Registers of Receipts.

Example—The balances which lapse on 31st March, 1922 are—

- (a) all balances not exceeding Rs 5 of A deposits received in 1920-21.
- (b) all balances of A deposits received in 1918-19
- (c) all balances of B deposits received in 1920-21

Statements of Lapsed Deposits.

839. (1) Three statements of the balances to be written off shall be prepared in Form No. (A) 12, one for each of the three classes (a), (b) and (c), specified in the *Example* under rule 838. These statements shall be submitted along with the Clearance Register. Those of the subordinate court must be compared by the District Judge with his own registers, and discrepancies, if found, must be reconciled. Those of the District Judge must include, under the District Judge's numbers, the lapsed balances of A deposits of the subordinate courts.

(2) As regards B deposits, the statements received from the subordinate courts must be copied into the District Judge's statement, with a separate total for each court, the originals being filed for future reference.

Note.—The note under rule 32 applies to these statements of lapsed deposits also.

Correction of Balance.

840. These statements must all be submitted during April, and the totals thereof must be deducted by a separate entry from the *plus* and *minus* memorandum, drawn up at the end of April, so that the *plus* and *minus* memorandum may show only the balance actually outstanding upon the registers of the court concerned.

Refund of Lapsed Deposits.

841. When payment of a deposit lapsed under rule 838 is required, by a person entitled thereto, application shall be made through the District Judge, who shall examine the claim, and, if he finds it correct, shall forward an application in Form No. (A) 4 to the Accountant-General. Several deposit numbers may be included in a single application, if they are payable to the same person. The Accountant-General's letter of authority, when received, shall be noted against the items in the Clearance Register (or original register in the case of a B deposit), so as to prevent a second application. This letter shall then be passed for payment at the treasury, as prescribed in the form. No other record of these refunds is necessary; and such payments are not to be shown in the *plus* and *minus* memorandum.

CHAPTER 33.

SUPPLEMENTARY AND MISCELLANEOUS RULES.

1. Supplementary rules as to receipts under head (A) of rule 745.

Note.—For rules as to refunds allowed under sub-heads (i) to (vii) of head (A) of rule 745, *see*, rules 789 to 791.

Registers.

844. Every Judge in charge shall maintain a register of judicial deposits other than civil deposits and peremptory receipts (*e.g.*, judicial fines, stamp duties and penalties, miscellaneous receipts, etc.) and refunds therefrom in Form No. (A) 22. In this register, all receipts are to be posted which do not come under head (B) (deposits) or head (C) (peremptory receipts) of rule 745. The entries shall be made and checked in the same way as the entries in the Register of Deposit receipts of the subordinate courts

845. Every court under whose decree or order receipts under sub-heads (i) to (iii) of head (A) of rule 745 are realised shall maintain a register in Form No. (A) 32. The entries in the register shall be initialised by the presiding officer of the court at the time of signing the order-sheet.

Credits to Government.

846. It is the duty of every Judge to see that sums which are in deposit, but which under any rule or law are forfeited, or become the property of Government (*e.g.*, earnest-money forfeited, or intestate property unclaimed), are duly credited to Government. In every such case there shall be prepared simultaneously (1) a payment order addressed to the cashier and directing payment of the deposit "by transfer as per chalan No. of this date," and (2) a chalan crediting it to the proper head. Such payment order and chalan shall be registered and dealt with in every way as if cash were paid out of and received into court

Receipts under sub-heads (i) and (iii) to (vii) of Head (A) of Rule 745.

847. (1) With regard to stamp duty and penalties, attention should be given to secs. 39, 45 and the other sections in Chapter IV of the Indian Stamp Act, 1899, as amended by the Bengal Stamp (Amendment) Act, 1922. The duty and the penalty must always be separately credited.

(2) Loose forms of the Register (R) 19 shall be used for the certificates to be sent to Collectors under sec. 38 of the Stamp Act on account of duty and penalty levied by civil courts on instruments which, though originally unstamped or insufficiently stamped, may be admitted under the provisions of secs. 35 and 37 of that Act.

Verification of stock of saleable forms.

853. The stock¹ of saleable forms in all civil courts subordinate to the High Court shall be verified half-yearly, issues being checked from the entries in column 15 of the register of judicial deposits (other than civil deposits and peremptory receipts) and refunds therefrom [Form No. (A) 22]. A certificate in the form given below, duly signed by the presiding officer of the court, shall be submitted by subordinate courts to the District Judge at the close of each half-year; and these returns, when received, should be forwarded by the District Judge, together with the return of his own court, to the Controller of Printing, Stamps and Stationery, Calcutta.—

Certificate.

Certified that the stock of saleable forms shown in the above return to be in hand on the _____ has been duly verified and found correct.

Presiding Officer.

Nazir.

The 19 .

2. Miscellaneous rules.**Accountant and Cashier.**

854. In carrying out these rules, care must be taken by all judicial officers that, in respect of cash transactions in court, district officers are employed as accountant and cashier. In other words, the same officer shall not keep the Registers of Chalcans and Payment Orders, Deposit Registers, etc., and also receive and pay the money.

Note.—A naib nazir or a clerk may be appointed as cashier provided (i) that he is expressly so designated, (ii) that his duties and responsibilities are made clear, and (iii) that he gives the necessary security. Such appointments should be made in cases where the nazir, owing to the pressure of other work, is unable to discharge the duties of cashier in strict accordance with the instructions contained in the Court's General Letter No. 1 of 29th January, 1902.

Language of Accounts.

855. Every judicial officer shall, save with the express permission of the District Judge, keep his accounts in English, and it must be distinctly recorded by him whether the sheristadar is, or is not, responsible for a general control and supervision over the accountant.

Note.—At headquarters stations the sheristadar, of the District Judge, and at subdivisions and out stations the sheristadar of the 'Judge in charge' should be required to inspect periodically and carefully the nazir's account books. The sheristadar should append his dated signature on the pages of the account books in token of his having examined them. The discovery of any defects, of a breach of the High Court's account rules, or of the instructions given in

¹For rules as to custody of Forms, see rule 1025.

APPENDICES.

Appendix I.

List of Registers to be compared daily by Judge in charge (Rule 857).

For all judicial officers—

Kept by the accountant—	Form No.
(1) Register of chalans	(A) 14
(2) Register of chalans for petty receipts	(A) 15
(3) Register of Payment Orders	(A) 16
(4) Treasury pass book	(A) 17
(5) Register of deposits received—	
Part I }	(A) 18
Part II }	
(6) Register of deposits repaid—	
Part I }	(A) 19
Part II }	
(7) Clearance Register of A deposits	(A) 20
(8) Register of Judicial Deposits (other than civil deposits and peremptory receipts) and refunds	(A) 22

Kept by the cashier—

(1) Counterfoils of receipts granted by cashier for peremptory cash receipts	(A) 23
(2) Peremptory cash register	(A) 24
(3) Cash book	(A) 25

For District Judges—

Kept by the accountant—

Register showing deposits received and repaid by Subordinate Courts	(A) 21
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Kept by the cashier—

Register of Intestate Property	(A) 27
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Appendix II.

Judge's Daily Examination of Accounts.

(1) Transactions at Court.

Comparison of cashier's cash book with the Registers of Chalans and Payment Orders.

Comparison of Treasury pass book with the cash book.

(2) Transactions at Treasury.

Comparison of treasury advice with postings therefrom in the Registers of Chalans, of Payment Orders, of Deposit Receipts, and of Miscellaneous Receipts.

Comparison of Treasury Advice with Treasury pass book.

(2) *From the District Judge through the Treasury Officer.*

Extract Register of deposit receipts with *plus*
and *minus* memorandum enfaced (rules 827
and 830) Monthly.

Extract from register of deposit repayments
(rule 828) Monthly

Statements of receipts of his court, and of the
courts subordinate to him, under the sub-
heads (i) to (vi) of head (A) of rule 745 (rule
852) Monthly.

(3) *From the District Judge to the Accountant-General direct.*

Clearance Register of A deposits (rule 834) .. Annually.

Statement of lapsed deposits of his Court, and
of the courts subordinate to him, with
certificates of the examination of B deposits
enfaced (rules 839 and 837) Annually.

PART VII.—Rules Relating to Registers, Periodical Returns, Statements and Annual Reports.

CHAPTER 34.

REGISTERS.

1. General.

858. A list of the registers prescribed for being maintained in the civil courts will be found in Volume II, comprising four classes:—

- (a) Account Registers.
- (b) Primary Registers.
- (c) Subsidiary Registers.
- (d) Statistical Registers.

Note 1.—The forms of the registers are in most cases self-explanatory and the additional instructions in this Chapter are for general guidance. Account Registers are separately dealt with in Part VI.

Note 2.—When registers are in bound volumes, the volumes should not be closed until all the forms therein have been exhausted.

859. Other Subsidiary or Statistical Registers should not be maintained in any court unless there are special circumstances for introducing them. The list referred to specifies all the registers which, it is believed, if properly maintained, will furnish every information absolutely necessary for judicial, administrative or statistical purposes. The introduction of unauthorised registers or books of any kind should be strongly discouraged.

860. All registers shall be kept in English.

861. The periods for which different registers have to be preserved are shown in the list given of them in Volume II. The periods stated therein are to be reckoned from the date of the last entry in the register and at the expiration of those periods the registers shall be destroyed.

862. No one except the clerk in charge of writing a particular register shall, unless otherwise provided, make any entry therein without the orders of the presiding Judge.

865. *Register of Miscellaneous Judicial Cases [(R) 2].*—In this register all miscellaneous judicial cases including references under the Land Acquisition Act, applications for probate, letters of administration, or succession certificate, applications in respect of minors or lunatics, applications to sue *in forma pauperis*, claims and objections, etc., should be entered. Applications to appeal *in forma pauperis* shall also be entered in this register.

Note.—In this register should be entered all miscellaneous judicial cases mentioned in rule 880, *post*, except applications for insolvency for which a separate register has been prescribed in Form No. (R) 3. See, however, Note to rule 880 (b) (54).

866. *Register of Appeals [Nos. (R) 6 (i), (R) 6 (ii), (R) 6 (iii)].*—(1) This register shall be maintained only in the courts of District Judges. Additional District Judges and Subordinate Judges shall, however, maintain supplementary registers in Form Nos. (R) 7 (i), (R) 7 (ii), (R) 7 (iii), (R) 7 (iv) for appeals transferred to their courts for disposal. When appeals so transferred have been disposed of by those courts, the records shall be sent to the court of District Judge for columns 18 to 20 of the latter's register being filled in in his office with as little delay as possible. After this is done the records shall be returned to the court disposing of the appeal for transmission to the record room in due course.

(2) The date of sending copies of judgment and decree to the lower court shall be entered in the remarks column of this register and of the supplementary register [No. (R) 7].

867. *Register of Miscellaneous Appeals [No. (R) 8].*—This register shall be maintained for only appeals from orders under sec. 104, C. P. Code (Or 43, r 1) and appeals in miscellaneous judicial cases.

Note.—Applications to withdraw or transfer an appeal under sec. 24, C. P. Code, for the re-admission or rehearing of an appeal under Or. 41, rr. 19 and 21, and for review under Or 47, r 1 not being appeals but of the nature of original applications though made to an appellate court, should be entered in the Register of Miscellaneous cases kept in that court. When, however, an appeal is remanded, revived or reviewed, it will of course be shown in its proper place in the Register of Appeals.

*** 868.** *Register of Suits before Courts of Small Causes [No. (R) 9].*—This register shall be used in courts of Small Causes only, and not by Munsifs and Subordinate Judges vested with Small Cause Court powers.

869. *Small Cause Sheet [No. (R) 10].*—This register shall be used in courts of Subordinate Judges and Munsifs invested with the powers of a Small Cause Court Judge under sec. 25 of the Provincial Small Causes Court Act (XII of 1887) for purposes of record in connection with cases tried under such powers.

N.B.—For other primary registers, see Volume II

3. Subsidiary Registers.

870. *Register of Application for copies [No. (R) 23].*—This register shall be maintained by the head comparing clerk or other officer-in-charge and not by a copyist.

Note.—Applications for copies or inspection of Wills and Registers of Wills, shall, in accordance with the orders of the local Government, be entered in this register.

CHAPTER 35.

PERIODICAL RETURNS AND STATEMENTS.

1. Forms.

873. The forms prescribed for submission by the civil courts of statements and returns are entered in the list to be found in Volume II.

874. The forms themselves contain instructions for observance. The following general instructions are intended to secure the correct and uniform preparation of these statements. The High Court desire to impress upon all presiding Judges and other officers concerned that unless the statements are prepared accurately and in exact compliance with the instructions issued, they are not merely valueless but mischievous.

Note 1.—Printed forms of the periodical statements will be supplied by the Press and Forms Manager, Bengal, to all subordinate courts from time to time on indent. The forms so supplied should alone be used for the periodical statements. The practice of extending the printed forms by pasting sheets of paper on to them should be avoided. As many printed forms as may be necessary to contain the information required should be used. For reports and for explanations where they have to be written separately, foolscap paper should be used.

Note 2.—Where a statement is blank it should not be submitted in a form, a note to that effect being sufficient.

Note 3.—In all the returns annas and pies should be omitted from the column in which any sums of money have to be shown.

Note 4.—Care must be taken that the number of suits or cases shown as pending at the close of one period is entered as pending at the beginning of the next. When, however, the entries must differ by reason of an error in a previous return, a note should be added explaining the discrepancy and pointing out the parts where corrections should be made.

2. Classification of Cases.

(i) Suits and Appeals from Decrees.

875. (1) For the purposes of the periodical statements, suits and appeals from decrees are divided into three classes:—

- (i) Suits for money and movables, and appeals in the same.
- (ii) Suits and appeals under the rent law; and
- (iii) Title and other suits, and appeals in the same.

(2) The details of this classification, which must be strictly adhered to throughout the returns, will be found in Annual Statement No. 2 [Form No. (S) 11].

(3) As all plaints are to be registered on presentation in the Registers of Suits (*vide* rule 55), orders rejecting plaints must be treated

(3) Miscellaneous civil proceedings under Or 16, rr. 12 and 17.

(4) Cases under sec. 47, C P Code.

Note.—Applications for ascertainment of mesne profits should be regarded as applications made in the course of the trial of the suit (Or. 20, r. 12) and are not to be registered as miscellaneous judicial cases

(5) Applications under sec. 144, C. P Code.

(6) Applications under Or. 21, r. 2, by judgment-debtors to certify payment or adjustment alleged to have been made when no execution proceeding is pending.

(7) Applications under Or. 21, r. 58 and Or. 38, r. 8.

(8) Applications under Or. 21, rr 90 and 91.

(9) Applications under sec. 74 and Or. 21, rr. 97 and 98.

(10) Applications under Or. 21, r. 100 (1).

(11) Applications under Or. 22, r. 9.

(12) Commissions under sec 76 (2), C. P. Code.

(13) Applications under Or. 33, r. 1 and Or. 44, r. 1.

(14) Proceedings under Or. 39, r. 1 (2) and (3) and r. 2 (3) and (4).

(15) Applications under Or. 46, r. 7.

(16) Applications under Or. 47, r 1.

(b) Cases under other Acts.

(17) Cases regarding the property of intestates under sec. 7 of the Bengal Wills and Intestacy Regulation, 1799, in which a claimant appears.

(18) Applications for the issue of an injunction under sec. 6, Bengal Patni Taluks Regulation, 1819.

(19) Applications under sec. 17, clause (7) of the Bengal Patni Taluks Regulation, 1819 (Regulation VIII of 1819).

(20) Applications under the Succession (Property Protection) Act, 1841.

(21) Applications regarding the care of lunatics' estates, and the guardianship of their persons, under the Indian Lunacy Act, 1912.

(22) Applications under sec. 47 or sec 75 of the Indian Lunacy Act, 1912, for sanction to the sale, etc., of the property of lunatics.

(23) Applications for probates and letters of administration under the Indian Succession Act (XXXIX of 1925), except contested cases which must be transferred to the head of suits. (*See*, rule 579, *ante*.)

(24) Inquiries made at the instance of the Collector under clause (5) of sec. 19H of the Court-fees Act, 1870, as to the true value of the property of deceased persons

(25) Cases under sec 59 of the Land Registration Act, 1876

(26) Applications under sec 11 of the Court of Wards Act, 1879.

(27) Cases under sec 14 of the Legal Practitioners Act, 1879.

(28) Cases under sec 83 of the Transfer of Property Act, 1882.

(29) Cases under secs 26F, 26J, 48E, 84, 88, 91, 93, 98 (8), 99, 148 (k) (iv), 148A (8), 153 (*last paragraph*), 158, 169, 173 (3) and 174 (3) of the Bengal Tenancy Act

(iv) Miscellaneous Appeals.

882. The following are classed as Miscellaneous Appeals:—

- (1) Appeals from orders under sec. 104 (1) [Or. 43, r. 1].
- (2) Appeals in miscellaneous judicial cases.

3. Compilation of Statements and Returns.

883. For statistical purposes, suits in which preliminary decrees are made under the provisions of Or. 20 of the C. P. Code, and suits for the foreclosure of a mortgage or the sale or redemption of mortgaged property in which a preliminary decree is made under the provisions of Or. 34 should be treated as disposed of and entered in the periodical statements as such when the preliminary decree is passed. If, at any time afterwards, an application is made for making the decree final, the suit should be brought into file again, and included in the column "Revived."

Note 1.—Subsequent proceedings are to be treated as a continuation of the suit. Cases brought into file again and disposed of should also be separately noted in the remarks column of statements and returns.

Note 2.—As to transmission of records of such suits to the record room, see Notes 1 and 2 to rule 491.

884. When a defendant having appeared at the first hearing fails to appear at an adjourned hearing and a decree is passed against him, the case should be exhibited as "decreed *ex parte*" (*Jonardan v. Ramdhone*, 1 L. R. 23 Cal. 738, F. B.).

885. (1) It is not possible to define precisely when a case should be treated and shown as decided without contest or "after full trial." Generally speaking, when any substantial question of fact or law is raised in the defence and is not waived at the trial, the decision is after full trial although little or no evidence, oral or documentary, may have to be adduced by the parties at the hearing. The main principle that should be kept in view is whether the contest is real or genuine and calls for judicial determination by the Judge. Figures are necessary for statistical purposes as also to be assured that each officer is doing his fair share of work. The object is to show "*bona fide*" contested work and not to swell the apparent outturn of such work in the courts by the inclusion of a mass of merely routine matters or matters of nominal contest which in no sense call for the exercise of judicial discrimination or discretion and which do not take up any appreciable amount of time. The entry of such matters in the statement showing disposal of suits after full trial not only defeats its object in the case of particular courts where this undesirable practice obtains but also destroys the value of comparison between different courts in respect of outturn.

(2) The following are some instances of cases which should be treated as decided without contest and shown as such, namely, all cases in which the only question or questions ultimately decided on, or with display of contest are:—

- (a) A question regarding the amount or apportionment of costs of a case, or
- (b) a question regarding payment by instalments, or

the date of restoration, revival, receipt on remand or by transfer, for all other purposes other than calculation of "average duration."

Note 1.—The date of the transfer of a case by one court is ordinarily to be taken as the date of its receipt on transfer by another, any instances of unusual delay should be noticed in the explanations

Note 2.—Advantage should be taken of the column in the returns for "Remarks" to show the extent to which the particular court immediately concerned is responsible for any delay, which, under the rules, requires explanation.

890. As regards suits, the date of the presentation of the plaint shall be considered as the date of institution, unless it contains some defect or omission so serious as to require its return before registration or amendment, in which case the date of admission, after correction and refile or amendment, shall be regarded as the date of institution. With regard to applications to execute decrees, the date of their presentation should alone be considered.

Note.—When on account of heavy filings on a particular date a plaint is entered in the Suit Register after the date on which it was presented, the date of registration should be shown below the date of presentation in column 1 of the Register of Suits as also on the ordersheet of the record

891. When an order has been made under Or. 41, r. 25 or 27 of the C. P. Code, the case is to be considered as pending before the appellate court, and the time occupied in making the return called for, or in taking the evidence, must be counted as time occupied in the appeal. If there is much delay in obtaining the finding or evidence asked for, the remarks column may be availed of in explaining the consequent delay in the disposal of the appeal.

892. When an order of remand is made under Or. 41, r. 23 of the C. P. Code, the case must be treated as decided by the appellate court, and must be brought on the file of the lower court.

893. Separate accounts must be kept of the time cases, whether suits or appeals, were pending (1) from institution to original or first decision, (2) from date of application for review to date of finally disposing of the case, whether the review shall have been granted or refused; (3) from the date of the order of remand under Or. 41, r. 23 of the C. P. Code, to the date of the new decision under such order. In Annual Statements Nos. 4 and 5 [Forms Nos (S) 13 to (S) 16, Volume II] it will be necessary to give only the average duration before the original or first decision of a suit or appeal

4. Submission of Periodical Returns and their Dates.

894. Monthly, quarterly and half-yearly statements should be despatched by subordinate courts to the District Judge on or before the 5th of the month next succeeding the period to which they relate, and annual statements on or before the 20th day of the new year.

Note.—The monthly statement in Form No (S) 1 is to be submitted every month irrespective of the quarterly and other periodical statements

895. (1) Quarterly and half-yearly statements should be submitted by District Judges to the High Court on or before the 15th of the month

904. Where, in the general statement compiled for any district, the total of the column "Received by transfer" differs from that of the column "Disposed of by transfer" the reason should be explained, and any cases transferred from or to other provinces should be noted particularly, as the information is required in the preparation of the High Court's general returns.

905. No statement or return prescribed by the High Court shall be modified, discontinued or replaced by any other, nor shall return or statement of any kind (weekly, fortnightly, monthly, quarterly, etc., etc.) be introduced without an express order of the High Court previously obtained. The High Court consider that the revised statements and returns prescribed are, if properly prepared and scrutinised, sufficient for administrative control and other purposes. Whenever any difficulty is experienced in respect of the prescribed forms, or any modification is considered necessary, the reasons therefor should be submitted by the District Judge with a draft of the proposed form for the consideration of the High Court. A District Judge may, however, in any particular case call for a statement other than the ordinary to enable him to deal with some special matter and when so doing, he shall see that such statement is brief in form and easily collected from existing registers.

Note.—The existence of many authorised and unauthorised returns is responsible for attention being diverted from much more important considerations and tends to defeat the whole object of the submission of periodical returns. All unauthorised special or periodical returns or statements of every kind, where they exist, should be discontinued forthwith [G. L. No. 20 of 1933].

906. (1) District Judges should carefully scrutinise the periodical statements and explanations submitted by the subordinate courts, and satisfy themselves that the business of those courts is transacted with due despatch, and that cases receive personal attention in execution as well as before decree.

Note.—See, rule 193.

(2) District Judges will insert at the foot of their quarterly statements, a certificate either that the statements, etc., have been found satisfactory or that needful steps have been taken in respect of those which have been found unsatisfactory, and cases which appear to call for notice or instruction of the High Court should be separately reported.

907. District Judges should personally examine, at least half-yearly, a certain proportion of the records of cases of all classes (contested and uncontested) disposed of by each subordinate judicial officer in the district and sent to the record room from all courts, in order to satisfy themselves that the work of those courts is being done with despatch and in accordance with law. The results of this examination should be noted in the Annual Administration Report and the names of the officers whose work is found to be defective or irregular or unsatisfactory should be mentioned there.

Note 1.—The examination should be directed with a view to ascertaining the following points among others—Whether orders are passed promptly and written properly, business is conducted with despatch, adjournments are too leniently granted, dates are fixed in a businesslike manner, *ex parte* injunctions or attachments before judgment are given too freely; proper discretion is used in allowing or refusing commissions, orders passed are in accordance with law; orders required to be drawn up in the hand of the Judge are so drawn up, evidence is properly recorded, judgments contain sufficient reason for decision, show proper appreciation of facts and knowledge of law, and are promptly written. etc., etc.

Note 2.—See, rule 914 (10).

to the state of the pending file, the complexity or otherwise of cases disposed of, the rise or fall in serious contest, the time spent by an officer in discharging duties when placed in administrative charge of a department, and other reasons, if any,

Note 2.—Names of officers are in many cases bracketed together with the comment “fair” or “unsatisfactory.” Such expressions do not convey any correct idea of the work of each officer. District Judges should make individual comment in each case with special reference to any deficiency apparent in the outturn [G. L. No. 1, dated the 11th January, 1932.]

(2) When the returns contain any adverse remarks regarding the numerical outturn of an officer, he should be demi-officially supplied with a transcript of such remarks, with a view to rectifying the defects in future.

912. Most of the annual statements can be readily compiled from the Statistical Registers, the forms of which are reproduced in Volume II, as Nos. (R) 42 to (R) 48. In the case of others, it is essential that the requisite information should be collected from time to time, so as to be available without delay at the close of the year. In the latter case District Judges should be careful to require the proper officers of their courts, and of the courts subordinate to them, to collect the information at convenient intervals.

CHAPTER 36.

ANNUAL AND CONFIDENTIAL REPORTS.

1. Annual Reports.

913. District Judges shall submit to the High Court, along with the annual returns and statements, a report for the year to which these refer upon the administration of civil justice. Tabular statements in Forms Nos. (S) 22 to (S) 31, Volume II, shall accompany the report, with apposite remarks as to any increase or decrease of business, or the like, shown in each. These tables shall include the figures for all the courts of small causes and the regular civil courts in each district, separate totals being given for each of these classes of courts. District Judges should be careful to avoid treating their annual reports as matters of routine, and are expected to see that the entries in the tables included in them, and those in the corresponding annual statements, agree, as they must do, exactly. The failure to explain discrepancies between figures given in two successive reports, which, in the absence of special reason, ought to be identical, is also a matter which leads to much unnecessary correspondence, and should be avoided.

914. (a) No particular form is prescribed for the Annual Administration Report. It is left to the District Judges to put on record the main features in the administration of civil justice of the year under review.

(b) Information regarding the following matters must, however, be included in the order stated below with explanations of important or suggestive variations in the statistics. Matters requiring special attention or suggestions regarding modification of rules should be stated separately:—

(1) Judicial staff of the district during the year under report.

(2) Noticeable rise or fall in the number of suits and cases filed in each class of courts, viz, Munsifs' Courts, Subordinate Judges' Courts and District Judges' Courts, and in individual courts; of suits of any particular description instituted in them; and of appeals filed in the last two classes of courts.

(3) Large or small disposals; and large number of cases pending at the close of the year of suits pending for over a year, of regular appeals pending for more than six months, of miscellaneous appeals pending for more than three months, of execution cases pending for more than six months and of small causes pending for more than three months observable in any courts.

(4) Noticeable increase or decrease of arrears as compared with the previous year.

(5) High or low percentage of appeal and of confirmation of decree on appeal.

(16) The mode in which effect is given to the rules relating to the employment of commissioners (Ch. XI) specially in commissions which require knowledge of surveying (rule 315 *et seq.*)

Note.—It should be noted whether commissions requiring knowledge of surveying are invariably issued to survey-passed pleaders as required by rule 315 *et seq.* A statement should also be furnished showing (i) the number of survey-passed pleaders in the district, (ii) number of other persons (if any) who are enrolled in the list of commissioners for execution of survey commission, (iii) total number of survey commissions issued during the last three years, (iv) the number of such commissions issued to survey-passed pleaders during the year and the total remuneration paid to them, (v) the number of such commissions issued to other persons during the year and the total remuneration paid to them. Remarks on the manner in which the commissioners have performed this class of work should also be added (*See also*, rule 317)

(17) The observance of the rules under the Court-fees Act (*see*, Chapters 26 and 43).

Note.—Under this head should be noted in particular the working of rule 685 (boat-hire surcharge), the manner in which the discretion given under the rule (*vide* Note 1 to the rule) is exercised and the total annual realisation and expenditure on account of boat-hire in the year under report and the previous year.

(18) The number of cases reported during the year to the Collector under sec. 58 (4), B. T. Act, and the Judge's observation, if any (rule 371)

(19) The working of the rules regarding pleaders' and mukhtars' clerks (rule 974 *et seq.*)

Note.—Information should be given on such subjects as Register properly maintained and revised annually? Cards renewed at close of year and re-issued promptly? Indiscriminate entry into offices allowed?

(20) Noticeable increase or decrease in the number of applications for information as compared with the previous year.

Note.—Numbers to be given separately for each court in the District.

(21) Cases of corrupt practice among the ministerial and process-serving staff which came to the notice of the courts and the punishment awarded to corrupt officials

(22) The condition of the judicial buildings. Improvements or repairs required? Internal alterations expedient?

(23) The effect of any recent legislation on the working of the courts.

(24) The extent to which the courts have applied the provisions of the Usurious Loans Act, 1918, and the Bengal Money-Lenders Act, 1933.

Note.—Information may usefully be given as to the rate of interest generally claimed in the courts and the rate of interest allowed in the case of secured and unsecured debts. The extent of the application of the Acts by the courts *suo motu* should also be noted

(25) The name of each officer presiding over the District Judge's Additional Judge's, Subordinate Judge's and Munsif's Court or Courts during the year, the period for which he held charge and the total civil (and criminal) work done by him

Note.—In this connection *see also*, rules 353 and 1085

(c) The length of the report should be curtailed as far as possible by the omission of figures appearing in the annual returns submitted to the High Court.

in appeal and on a knowledge of the officer's administrative and general methods and capabilities. The reports should be frank and outspoken.

Note 1.—In this connection *see* also, rule 353.

Note 2.—Vague and inconclusive remarks or the use of such vague general expressions as "satisfactory," "bad," or the like are not very helpful and defeat the object with which such report is prescribed. When it is said that an officer is "good" it may be taken to mean that a reporting officer has really no criticism to offer, and that the officer reported on has given satisfaction. But if an officer has any particular good quality worth mentioning, *e.g.*, "energetic" or "sound in judgment" or "tactful," it may be of great advantage that it should be specially mentioned. In reporting unfavourably of an officer, the use of such vague expressions as "bad," "unsatisfactory," or "useless" is distinctly more objectionable. It is essential to know, if possible, wherein the badness consists. The report should state whether the officer is "perverse," "untrustworthy," "lazy," "perfunctory" or whatever the particular characteristic of his work may be, and it is a good thing to illustrate briefly the unfavourable trait.

Note 3.—The Government of India have recently drawn attention to the following observations of the Public Services Commission—"One common defect is the irregularity of reports, *i.e.*, long periods are often barren of any remark. Another is that remarks are often so brief and casual as to convey real little meaning. A third defect is that remarks are often mere off-hand impressions, while a fourth arises out of the fact that strictures are often recorded without any grounds being given. All the above defects, when present collectively, in combination, or singly, serve to rob a personal file of much of its value, and indeed largely to defeat the purpose for which it is supposed to be maintained. In particular it is important that whenever a censure or inappreciative opinion is recorded, some effort should be made by the writer to give the reasons, and as far as possible the facts, on which he bases his view."

(4) The manner in which subordinate judicial officers have managed their offices and discharged their duties when placed in administrative charge of a department, (*e.g.*, the accounts, the record room, the copying or nazarat, etc.) should be specially reported on and any instance of special excellence should be brought to the notice of the High Court. Administrative ability in an officer counts no less than capacity for judicial work and such reports are of the greatest value to the High Court in assessing the merits of a particular officer, and his fitness for confirmation and promotion.

Note.—Such reports should invariably state whether the officer exercises effective control over his office and the departments he may be in charge of. It is often simply mentioned that an officer held charge of a department. Such information conveys no real meaning and is of no use.

917. Confidential reports should in future be in printed Form No. (M) 8 and should be filled up entirely in the reporting officer's own hand.

Note.—For form of confidential reports for submission to the High Court. *see* Appendix to this Part

918. If the confidential reports on the work and character of subordinate judicial officers contain remediable defects or any adverse remarks regarding an officer which in the opinion of the High Court should be communicated to him for his guidance and correction, a transcript of the remarks will be sent by the Registrar directly to the officer concerned.

919. Sessions Judges are required to submit to the High Court on or before the 15th February of each year, a confidential report on the

APPENDIX.

Form No. (M) 8.

Form for submission to the High Court of confidential reports regarding
Munsifs, etc., (rule 917).*

(To be filled up entirely in the reporting officer's own hand)

1. Name of officer reported on
2. Post held under reporting officer
with special powers, if any.
3. Total service as—
Munsif.
Subordinate Judge.

4. Period under observation of
reporting officer.

5. Remarks as to quantity of work
disposed of

Note 1.—The remarks should, if possible, be supported by figures showing the number of cases disposed of, increase or decrease of arrears, etc.

Note 2.—In judging of the adequacy or otherwise of the outturn regard should be had to the instructions in rule 911, Vol. I. If the numerical disposal appear to be small, the features, if any, present to explain it should be noted.

6. Remarks as to quality of judicial
work disposed of and as to
promptitude of disposal.

Note 1.—It should be noted whether the remarks are based on the reporting Judge's own knowledge of the officer's work as the result of hearing a sufficient number of appeals, or on information obtained from other appellate courts (name to be given) or on both.

Note 2—It should be noted whether evidence is recorded properly, the officer has a grasp of facts and knowledge of law and judgments are well reasoned and not unduly long

Note 3—Percentage of regular and miscellaneous appeals confirmed, modified and reversed should be given separately

7. Remarks as to administrative
work and ability

8. Remarks as to character or reputation.

9. General remarks, if any

Station

Dated. 19 .

District Judge.

*Attention is invited to rules 915-917, Civil Rules and Orders, Vol. I.

PART VIII.—Legal Practitioners.*

CHAPTER 37.

THE QUALIFICATION, ADMISSION AND CERTIFICATES OF PLEADERS AND MUKHTARS IN COURTS SUBORDINATE TO THE HIGH COURT.

1. Qualification of Pleadors.

922. (1) On and after the 1st January, 1930, no person shall be admitted as a pleader in the courts subordinate to the High Court, unless he has served as a probationer for a period of one year in conformity with the following rules, is eligible thereunder and has satisfied the requirements thereof:

Provided that a person who has been enrolled as a pleader under any other High Court and has practised as such in courts subordinate to that High Court, for a period of three years, and who desires to be enrolled as a pleader under this High Court, may be exempted from serving as a probationer as required under this sub-rule, on his making an application to this High Court for the purpose. But any such pleader not completing the aforesaid period of practice shall ordinarily be required to serve as a probationer for one year in accordance with these rules.

(2) Any person, who has obtained the degree of Bachelor of Law of one of the Universities of Agra, Allahabad, Bombay, Calcutta, Dacca, Delhi, Lucknow, Madras, Nagpur, Patna, the Punjab, Rangoon, or of the Muslim University of Aligarh or of the Benares Hindu University, or has passed the examination qualifying himself for obtaining such degree, shall be enrolled as a probationer, provided that his application to serve as a probationer be made within one year from the date of his obtaining such degree, or within such further time as the High Court may for special reason allow, and provided that a Bachelor of Law of one of the Universities aforesaid, other than the Calcutta, Dacca and Patna Universities so applying has passed an examination held under the direction of the District Judge in reading, writing and speaking the vernacular of the district in which he intends ordinarily to practise or under the direction of the Chief Judge, Court of Small Causes, Calcutta, in case the applicant desires ordinarily to practise in his Court or in the Courts of the Presidency Magistrates, Calcutta, in reading, writing and speaking the vernacular of the district of the 24-Parganas.

Note.—The period of one year referred to in this rule shall count from the date of the applicant's diploma

*For fees allowed in respect of an adversary's pleader or mukhtar, *see*, rule 717 *et seq*

Court also for such a change has been previously obtained on an application made to it through the Judge of the district in which the probationer is for the time being serving.

Note.—If the Judgeship includes more than one executive district, the application is to be sent, through the District Judge in charge of all the districts comprising the Judgeship.

(9) During the period of probation aforesaid, the probationer may be excused absence for a portion or portions thereof, provided the pleader with whom or the court in which the probationer is to serve is satisfied that there is good cause for such absence, and that the training of the probationer will not materially suffer therefrom. In any other case the deficiency will have to be made up by serving for such further period, not longer than the actual period of absence, as may be necessary in the opinion of the pleader or of the court, as the case may be.

(10) A pleader who is permitted to take a probationer will be allowed to charge a fee of Rs 50 for his remuneration for the training he gives to the probationer, and may refuse to give a certificate of his willingness to take the probationer unless he receives the same in advance. In case, however, of the pleader not being able to retain the probationer for the full period of probation with him, the probationer will be entitled to a refund of an amount in proportion to the uncompleted portion of the service with such pleader.

(11) Every probationer shall, during the whole period of his probation, be exclusively employed by the pleader in his proper business and practice as such.

(12) On completion of the period of probation as aforesaid, the probationer shall file with the District Judge or the Chief Judge, Court of Small Causes, Calcutta, as the case may be, a certificate in Form A of the schedule from the pleader and a certificate in Form B of the schedule from the Judge of the district or the senior Munsif in the subdivision or in an outlying munsifi or the Chief Judge, Court of Small Causes, Calcutta, as the case may be, and the certificates shall be forwarded by the District Judge or the Chief Judge, Court of Small Causes, Calcutta, as the case may be, to the Registrar of the High Court, Appellate Side, either along with or in continuation of his application for admission as a pleader mentioned in rule 935 *post*; provided that the Judge of the district or the senior Munsif of the subdivision, or outlying munsifi or the Chief Judge, Court of Small Causes, Calcutta, should he entertain a doubt as to whether the probationer has diligently worked as such, may, before giving such certificate, subject the probationer to an examination as regards procedure, and should he not be satisfied as a result of that examination that the probationer has served with diligence, may direct him to continue as a probationer for a further period not exceeding three months.

SCHEDULE.

Form A.

I, A B, Pleader, practising in _____ certify that X Y has duly and faithfully served me as a probationer for the period required by the rules* and, in my opinion, he is a fit and proper person to be admitted as a pleader in the courts subordinate to the High Court

Date

Signature of the Pleader.

*In the case of a probationer who has served more than one pleader, instead of the words "the period required by the rules" the actual period for which the probationer served each of them shall be stated, and a certificate shall be obtained from each of such pleaders

*(2) Extent and scope of the subjects for examination—**(i) Land Laws shall include—*

- Regulation (Bengal) I of 1793 (Bengal Permanent Settlement).
- Regulation (Bengal) VIII of 1793 (Bengal Decennial Settlement).
- Regulation (Bengal) XIX of 1793 (Bengal Revenue-free Lands Grants)
- Act XI of 1859 (Bengal Land Revenue Sales).
- Regulation (Bengal) VIII of 1819 (Bengal Patni Taluqs)
- Bengal Act VIII of 1865 (Bengal Rent-Recovery Under-tenures).
- Act VIII of 1885 (Bengal Tenancy) except in the case of candidates to practise in Assam who will be required to pass in Regulation I of 1886 (Assam Land and Revenue), and Bengal Act VIII of 1869.

(ii) The Law of Civil Procedure shall include—

- The Civil Procedure Code (Act V of 1908)
- The Provincial Insolvency Act (Act V of 1920).
- The Court-fees Act (Act VII of 1870 omitting the schedules).
- The Stamp Act (Act II of 1899 omitting the schedule).
- The Bengal Civil Courts Act (Act XII of 1887).
- The Legal Practitioners Act (Act XVIII of 1879)

(iii) The Laws of Evidence and Limitation shall include—

- The Indian Evidence Act (Act I of 1872).
- The Indian Limitation Act (Act IX of 1908 omitting the schedule).
- The Indian Registration Act (Act XVI of 1908)
- The Indian Majority Act (Act IX of 1875)

(iv) The Law of Crimes shall include—

- The Indian Penal Code (Act XLV of 1860)
- The Code of Criminal Procedure (Act V of 1898)

927. In order to qualify a person to present himself for the examination required by these rules for mukhtars:—

(1) He must hold a certificate of having passed the Entrance or Matriculation Examination of one of the Universities of Calcutta, Madras, Bombay, the Punjab, Allahabad or Patna or the High Madrasa Examination of the Board of Intermediate and Secondary Education, Dacca, or the High School Examination of the Board of Intermediate and Secondary Education, Dacca.

(2) He must produce a satisfactory certificate of good moral character and be above the age of twenty years.

(B) Examination.

928. Every candidate for examination for mukhtarship shall, on or before the 15th November or first open day thereafter in each year, apply to the Committee for leave to present himself at the ensuing examination, and, before he be admitted to such examination, he shall establish to their satisfaction that he possesses the qualifications prescribed for such candidates, and has complied with the provisions of the following rule.

929. Such application is not to be transmitted to the Committee direct, but it is to be filed on or before the said 15th day of November or first open day thereafter in the Court of the District Judge within

¹See, rule 923

(3) Should a mukhtarship candidate be refused admission to the examination, the fee paid by him will be refunded on a written application accompanied by a certificate from the Secretary to the Committee to that effect

3. Admission to practice of legal practitioners.

935. Any person who shall have qualified under these rules, and who shall desire to be admitted to practice, shall pay into the Government Treasury of the district in which he shall intend ordinarily to practise or the Imperial Bank of India, Calcutta, in case he shall intend ordinarily to practise in the Court of Small Causes, Calcutta, or the Courts of the Presidency Magistrates, Calcutta, the fee prescribed by rule 946, and shall, on presentation of the certificate of the Committee or of his diploma or a provisional certificate showing that he has passed the examination qualifying himself for obtaining the diploma, or licence, of the receipt for the said fee, and of a stamp paper of the necessary value of his first certificate of practice, be entitled to apply to the High Court for admission, stating in what classes of courts he desires to practise, with reference to Schedule 1 and Schedule 2 of Act XVIII of 1879:

Provided that a person who desires to be admitted as a pleader, may apply as aforesaid to the High Court for such admission not earlier than two months before the date on which the period of his probation is due to be completed.

Note.—An application under the Legal Practitioners Act, 1879, for admission as a pleader or mukhtar of the subordinate courts, or for renewal of a certificate, or for enrolment, being made to a court in its administrative capacity does not fall within the provisions of the Court-fees Act, 1870, and is not liable to any stamp duty. All such applications will be received by District Judges or the Chief Judge, Court of Small Causes, Calcutta, as the case may be, on plain paper, and where necessary forwarded to the High Court in accordance with these rules.

936. The application, together with the certificate or diploma or provisional certificate, the receipt, and the stamp paper required by rule 935 shall be presented to the Judge of the district in which the applicant intends ordinarily to practise or to the Chief Judge, Court of Small Causes, Calcutta, if he desires ordinarily to practise in his Court or the Courts of the Presidency Magistrates, Calcutta; and shall be forwarded by the District Judge or the Chief Judge, as the case may be, to the Registrar of the High Court, Appellate Side, with such remarks as he may think fit to make thereon

Note 1.—The form of the letter from the District Judge forwarding the application is given in Volume II, Form No (M) 14 The same form shall be used by the Chief Judge with suitable modifications

Note 2.—Except in a case where a person applies for enrolment as a pleader under the High Court after practising as such under any other High Court or when a person applies for enrolment through the Judge of the district other than that in which he has served his probationship, no identification of the applicant for enrolment is necessary and therefore paragraph 3 of the form No. (M) 14 is not required to be filled in. [G L No 38 of 14th December, 1932]

937. The name of the applicant and his place of abode, together with his father's name and place of abode, shall be affixed in some conspicuous place in the court-house of the District Judge or the Chief Judge to whom the application is sent, and also in the High Court, at least six weeks before the applicant is admitted to practise.

applicant ordinarily practises The Munsif, Subordinate Judge, or Judge of a Small Cause Court may forward the application for a renewed certificate to the District Judge

Note 1.—See Note to rule 935.

Note 2.—The Chief Presidency Magistrate, Calcutta, is authorised under sec. 7 of the Legal Practitioners' Act, 1879, to renew the certificates of practice of pleaders and mukhtars at the time ordinarily practising in the jurisdiction of any of the Presidency Magistrates' Courts in Calcutta (Notification, dated the 1st February, 1900.)

944. Certificates may be renewed under sec. 7 of the Legal Practitioners Act (XVIII of 1879), by the Judge of the District Court or the Chief Judge, Court of Small Causes, Calcutta, or other officer authorised to renew certificates whether the value of the stamped paper on which the renewed certificate is to be issued (as prescribed by the second schedule of the Act) is the same as, or different from, the value of that on which the certificate in force of the particular pleader or mukhtar was issued.

945. The renewed certificate shall state the fact and date of its renewal and shall specify the classes of courts and offices in which the applicant shall be authorised to practise regard being had to Schedule II of Act XVII of 1879.

Note 1.—In granting renewed certificates under clause (i), Schedule II, Part I, of the Legal Practitioners' Act, XVIII of 1879, the words "except the Calcutta Small Cause Court" should be inserted at the end of paragraph 2 of the certificates in the case of pleaders who are not graduates in law of one of the Universities mentioned in rule 922 (2) *ante*.

Note 2.—No mukhtar enrolled on and from the first day of April, 1925, shall be empowered to practise in the Courts of the Presidency Magistrates, Calcutta. In granting renewed certificates under clauses (h), (i) and (j), Schedule II, Part II, of the Legal Practitioners Act, XVIII of 1879, to such mukhtars the words "except the Courts of the Presidency Magistrates, Calcutta" will be inserted at the end of paragraph 2 of such certificates

946. The fees payable on application for enrolment shall be as follows:—

					Rs
Pleader	..	...	..	...	25
Mukhtar	..	...	...	...	10

Note.—As to value of stamps for certificates, whether original or renewed, see section 25 of the Legal Practitioners' Act, 1879, and the second schedule to the Act

947. A pleader or mukhtar desirous of practising in any district other than that in which his certificate was last renewed, shall apply to the District Judge of such district for the entry of his name in the district roll of pleaders and mukhtars. Similarly, a pleader ordinarily practising in the Court of Small Causes, Calcutta, who desires to practise in any district or *vice versa* shall apply to the District Judge concerned or the Chief Judge, Court of Small Causes, Calcutta, as the case may be, for the entry of his name in the district roll of pleaders or in the roll of pleaders maintained by the Chief Judge. Before complying with the application the District Judge or the Chief Judge shall satisfy himself by such enquiries as he may think fit, as to the applicant's identity and previous good conduct.

while holding such appointment or so engaged, or may make such other order or orders as may seem fit.

Note.—The intimation provided for by this rule shall be given by mukhtars, if any, practising in the Court of the Presidency Magistrate through the Chief Presidency Magistrate, Calcutta.

952. Any person, who having obtained leave or having been required to suspend practice under the last preceding rule, desires, on relinquishing his appointment or ceasing to be engaged as aforesaid, to be readmitted to practice, shall apply through the District Judge or the Chief Judge, Court of Small Causes, Calcutta, as the case may be, to the High Court for permission, and shall furnish with his application such evidence as the District Judge or the Chief Judge, Court of Small Causes, Calcutta, as the case may be, shall require of good conduct and character during the period of his suspension

953. Any wilful violation of rules 950 and 951 shall render the pleader or mukhtar concerned liable to a fine which shall not in any case be less than Rs. 50 and may also render him liable, in addition, to suspension or dismissal.

Note.—This rule shall also apply to such cases of infringement of rules 950 and 951 as they stood prior to the publication of these rules in the local official gazette, as may have been or may hereafter be brought to the notice of this Court.

CHAPTER 38.

ANNUAL RENEWAL OF LEGAL PRACTITIONERS' CERTIFICATES, AND RETURNS OF THE SAME.

954. All pleaders' and mukhtars' certificates, whether taken out for the first time or renewed, shall be issued by District Judges or the Chief Judge, Court of Small Causes, Calcutta, as the case may be, as from the 1st January of the year in which they are taken out. District Judges and the Chief Judge shall submit, during the first week of February in the following year, a return of the certificates renewed by them for the current calendar year, as well as the names of those pleaders and mukhtars who had not renewed their certificates up to the date of report, and who are not therefore entitled to practise. A list containing the names of these last-mentioned persons shall be posted in the court-house, with an intimation that they are liable to penalties if found practising without having renewed their certificates. If any pleader or mukhtar, whose name appears in the list, shall subsequently take out a certificate during the year, his name shall be reported to the High Court.

Note 1.—The form of the annual return prescribed by this rule is given in Volume II, Form No. (S) 33.

Note 2.—The renewing officer shall check the entry in column 5 of the register in Form No. (R) 35 with the value of the stamp paper on which the certificate is renewed and then put his initial in column 6. If for want of time he is unable to check the entries in column 5, he is authorised to delegate his duty to the sheristadar or head clerk or both. In that case the checking officer will after scrutiny certify that he has found the entries and the stamps to be correct and the renewing officer will then put his initial on the strength of the certificate. [G. I. No. 20 of 2nd May, 1932, and No. 28 of 25th June, 1932.]

955. Separate returns should be submitted of (1) pleaders, and (2) mukhtars, and the first part of each return should show, in order of seniority, the names and particulars of those who have renewed their certificates, and the latter part, the names and particulars of those who have not done so.

956. (1) District Judges will inform the District Magistrate of the names of any pleaders and mukhtars who may enrol themselves in their courts, or may renew their certificates.

(2) Similarly, the Chief Judge, Court of Small Causes, Calcutta, will inform the Chief Presidency Magistrate, Calcutta, of the names of pleaders who may enrol themselves in his court or, whose certificates may be renewed by him.

CHAPTER 39.

RULES REGARDING THE FUNCTIONS, ETC., OF MUKHTARS FRAMED UNDER SEC. 11 OF ACT XVIII OF 1879.

957. The following are the functions, powers, and duties of mukhtars practising in the subordinate courts:—

(1) To take instructions from his client and communicate with him.	
(2) To appoint and instruct advocates, vakils, pleaders, or attorneys; and to attend the court during the trial of the client's case.	
(3) To inspect* and take copies of records.	
(4) To present a plaint (including any documents that may be attached to it), and receive it back if it be rejected or returned.	Civil Procedure Code, sec. 26, Or. 4, r. 1. Or 6, r. 17; Or. 7, rr. 10 and 14.
(5) To draw, and annex to the plaint, a memorandum of the documents which are attached to it; and present plain copies of the plaint or concise statements, as the case may be, and enter a list of documents to be relied upon by the plaintiff as evidence.	Or. 7, rr. 9 and 14.
(6) To produce documents for his client, and receive them back again if they be rejected or returned	Ors. 5, r. 7; Or. 7, r. 17; Or 11, r. 14; and Or. 13, rr. 1, 4, 6 and 9.
(7) To tender a written statement, and receive it back again if it be rejected or returned.	Or. 8, rr. 1 and 9; and see also Or. 6, rr. 16 and 17.
(8) To apply for and receive process, and communicate with the serving officer or the Small Cause Court, as the case may be, with a view to the service of the same.	Sec. 27; Ors. 5, rr. 21 and 22; Or. 9, rr. 4 and 6.
(9) To file interrogatories for delivery through the court	Or. 11, rr. 1, 2 and 4.
(10) To file affidavits	Or. 11, rr. 12 and 13.
(11) To file notices for service through the court and accept such notices on behalf of his client	Or 11, r. 17.
(12) To apply for an order of inspection, and inspect books, documents, etc., on behalf of his client.	Or 11, r. 18.
(13) To apply to the court to send for a record .	Or. 13, r. 10.
(14) To apply for summonses to witnesses	Or. 16, r. 1
(15) To apply for an adjournment .	Or. 17, r. 1.

*See rule 959 of this Chapter. Attention is drawn to the fact that if any extract from a record is required it must be obtained through the copying department in the usual way (rule 543.)

(36) To apply to establish a right to measure land, under sec. 91 of the Bengal Tenancy Act (VIII of 1885).	
(37) To apply to have lands measured under sec. 103 of the Bengal Tenancy Act (VIII of 1885).	
(38) To apply for execution and sale under the Bengal Tenancy Act (VIII of 1885).	
(39) To apply for foreclosure, or to deposit money under Bengal Regulation I of 1798, or Bengal Regulation XVII of 1806.	
(40) To apply for a certificate or for the revocation of a certificate, under Act VIII of 1890, or under Part X of Act XXXIX of 1925, if unopposed	
(41) To apply for probate or letters of administration, if unopposed.	
(42) To file an application on behalf of a person applying to be declared insolvent.	Sec. 12 of the Provincial Insolvency Act, V of 1920.

Note 1—When any document (of whatever nature) is required by law to be signed or verified, or both signed and verified, it is incumbent upon the mukhtar to see that the same is properly signed or verified, or signed and verified before filing or presenting the same and where any application is required to be made upon affidavit, or affirmation, or verified statement, it is not to be entertained unless so made.

Note 2—When a plaint or a written statement is presented or tendered by a mukhtar (see clauses 4 and 7), an endorsement shall be made thereupon by the officer of the court receiving the same in the following terms—

“ Presented by A. B. Mukhtar ”

The endorsement shall be signed by such officer and by mukhtar.

958. A mukhtar shall not be allowed to address the court except for the purpose of stating the nature and effect of his application, or, without the leave of the court, specially given, to offer any legal argument or examine witnesses.

959. A mukhtar shall be allowed reasonable access to the record in any pending case in which he is concerned, for the purposes of his employment in that particular case; but the examination of records by mukhtars shall be allowed only on office days and during such office hours as the presiding Judge may prescribe.

Note.—For condition governing such examination, see rules 488 to 490.

960. Every mukhtar who has acted for a suitor in any appeal or matter shall be bound to furnish to his client, within 15 days after the decree or order of the court has been signed, an account in the form hereto annexed, and in a language which the client understands, showing all receipts and disbursements which have passed through his hands in the cause; and to such account shall be annexed a receipt signed by the advocate, vakil or pleader for all fees paid to him.

CHAPTER 40.

RULES REGARDING VAKALATNAMAS AND MUKHTARNAMAS.

963. Vakalatnamas and mukhtarnamas, whether executed by principals or their attorneys and agents and mukhtarnamas under the authority of which vakalatnamas are executed, shall not be required to be verified on oath. The responsibility in regard to all such documents being properly and correctly executed shall rest entirely with the legal practitioners concerned. This rule does not apply to cases in which only mukhtars or agents not duly certificated under any law, for the time being in force are employed. In all such cases the mukhtarnamas shall be verified on oath.

Note.—This exception does not affect the practice in criminal courts. (C. O. No. 19 of 11th May, 1878)

964. Advocates and vakils practising in the High Court shall note on their vakalatnamas the names of the mukhtars or other persons from whom the vakalatnamas are received.

965. The appointment of a mukhtar in addition to a pleader cannot be authorised on the vakalatnama appointing the latter, but only on a separate document drawn as a mukhtarnama and *vice versa*.

966. No advocate, vakil or pleader without accepting in writing a vakalatnama (and filing it if it be not already filed) shall act in any case

967. No advocate, vakil or pleader shall plead in any case unless he has (a) been engaged for that purpose by another advocate, vakil or pleader duly appointed to act for the party or (b) filed a memorandum of appearance under Or. 3, r. 4, C. P. Code [substituted by section 2 of the C. P. Code (second amendment), Act XXII of 1926.]

968. When the party cannot sign his or her name, the vakalatnama or mukhtarnama must be endorsed as follows:—

I, A.B., do hereby appoint C.D., advocate/vakil/pleader/mukhtar, to act for me in the abovenamed cause, in token whereof I have affixed my left thumb impression in the presence of E. F.

X. (*left thumb impression*)

and I, E F, do hereby attest the above thumb impression as having been affixed in my presence by A B., who is known to me

X (*signature*).

Note 1.—Finger impressions should be taken with printer's ink.

Note 2.—The attester should be a person other than the person who writes the endorsement.

969. (I) All judicial officers will publicly impress upon advocates, pleaders and mukhtars a sense of their responsibility to the courts in which they practise in the matter of accepting vakalatnamas or mukhtarnamas, as the case may be, from parties themselves, or from persons professing to be authorised by special or general powers-of-attorney to act on behalf of other persons.

(7) A vakalatnama or mukhtarnama, which has been filed in court may subsequently with the permission of the presiding Judge, be accepted by an advocate, vakil, pleader or mukhtar, as the case may be, whose name appeared in it at the time when it was first filed; in the case of such subsequent acceptance the endorsement shall contain the same particulars as are required in the case of the first acceptance under sub-rule (6) above.

Note 1.—A pleader's registered clerk cannot transfer a vakalatnama to any pleader.

Note 2.—The several provisions of rule 969 apply to attorneys practising in the subordinate courts.

970. A party who has retained an advocate, vakil, or pleader to appear and act for him and appointed him by execution of a vakalatnama cannot be heard in person, unless he first withdraws the vakalatnama and determines the appointment in the manner laid down in Or. 3, r. 4, C. P. Code.

971. (1) If no fresh vakalatnama is filed in execution cases, the party applying for execution must make a verified statement that the advocate, vakil or pleader filing the application for execution is the duly authorised advocate, vakil or pleader who acted for him in the original suit.

(2) As the powers conferred on an advocate, vakil or pleader cease on the enforcement of the decree, —that is on payment of the money (if money be decreed) into court—an advocate, vakil or pleader in a suit cannot receive without any special power, sums realised in execution of the decree in such suit. The taking of the money out of court is a subsequent and separate transaction and no advocate, vakil or pleader shall be allowed to receive or withdraw the same unless—

(a) the vakalatnama under which he acted on behalf of his client in the suit or in the execution proceedings (where a fresh vakalatnama has been filed) contains a special clause enabling him to do so, or

(b) there is a separate instrument distinctly conferring on him the authority to do so, or

(c) the decree-holder has in his application for execution made a verified statement that a special power to receive money realised in execution had been conferred on the advocate, vakil or pleader who acted for him in the suit concerned and also a prayer that the money should on realisation be paid to the said advocate, vakil or pleader acting on his behalf under such power.

CHAPTER 41.

DRESS.

972. Advocates and Vakils of the High Court shall when appearing in the Subordinate Courts, wear the same gown as in the High Court.

973. The following distinctive dress shall be worn by legal practitioners of the subordinate courts when appearing in court:—

(1) *By Pleaders.*—(a) A black or white *chapkan*, *achkan* or buttoned-up long coat with trousers to match and a black alpaca gown of the cut and shape of a B.A. gown; or

(b) If European dress is worn, then a black coat with dark or white trousers and a black or dark coloured plain tie and the gown.

Note 1.—“White” in sub-rule (1) (a) comprises any plain dull colour like whitish, pale cream, natural, tussore, etc.

Note 2.—(a) The wearing of the gown is compulsory.

(b) The privilege extends to all pleaders authorised to practise under section 7 of the Legal Practitioners’ Act, 1879 [General Letter No. 4 of 29th April, 1915].

Note 3.—Pleaders who desire to wear out their existing green gowns may be permitted to appear in them so long as they are fit to be worn

Note 4.—Pleaders have the option of wearing or not wearing their gowns when appearing before Magistrates or other executive officers discharging civil and revenue duties, who are not themselves required to wear gowns.

(2) *By Mukhtars.*—The same dress as that of pleaders in sub-rule (1) (a) and (b) but without the gown and with a black or white *choga* or a white *chaddar* crossed at the breast when wearing the *chapkan* or *achkan* in sub-rule (1) (a).

Note 5.—The wearing of a head dress, a turban or a *pugree* for pleaders and a *shamla* for mukhtars, when appearing in Indian dress, is optional.

CHAPTER 42.

PLEADERS AND MUKHTARS' REGISTERED CLERKS.*

974. The expression "Registered Clerk" means a clerk who is employed by a pleader or mukhtar in connection with his legal business and who is registered under these rules.

975. A registered clerk shall for the purpose of performing the ministerial part of the work of his employer's office have access to any court in which the latter is authorised to practise and to such of its ministerial officers as may in that behalf be designated by the presiding Judge of such court.

Note 1.—"Access" means approach to; it does not authorise a registered clerk to go inside the office of any court. *See also*, rule 1034

Note 2.—No person employed by a pleader or mukhtar other than a registered clerk shall be allowed access to any of the courts of the district or to have any dealing with the ministerial officers attached thereto.

Note 3.—A registered clerk desiring to have access to any ministerial officer shall on demand produce his card

976. Not more than one clerk at a time in the case of a mukhtar, and not more than two clerks in the case of a pleader shall ordinarily be registered

Note.—It is only in special cases that a legal practitioner may be allowed to employ any registered clerk in excess of the number prescribed by this rule. Such cases should be reported to the High Court for orders with a statement of the reasons for exceeding the prescribed number.

977. At district headquarter stations the registering authority shall be the District Magistrate in the case of clerks of mukhtars ordinarily practising in the magisterial courts and the District Judge in all other cases and at other stations such authority shall be the principal magisterial court and the principal civil court respectively. Where there is more than one civil court of the same grade at any such station, the power shall be exercised by the senior Judge unless the District Judge otherwise directs.

978. (1) Every application for the registration of a clerk shall be made to the registering authority by the pleader or mukhtar desiring to employ him. It shall be accompanied by a statement of the clerk proposed to be employed that he is willing to be taken in as a registered clerk of the legal practitioner concerned and that he will employ himself exclusively in the service of his master for the purpose of his *bona fide* legal business.

Note.—Every person who desires to be registered as a clerk shall be required to write before the registering officer or any person appointed by him for the purpose and no person whose handwriting is illegible or bad will be registered as a recognised clerk.

*In exercising the powers mentioned in rules 977 and 981 the subordinate civil and criminal courts shall be subject to the general control of the District Judge and the District Magistrate, respectively

involving moral turpitude. Every order of removal shall be communicated to the other registering authorities of the district.

Note.—Proceedings taken against clerks under this sub-rule are administrative and not judicial proceedings.

982. No person whose name has been struck off the register shall be recommended for registration by any pleader or mukhtar at the same or any other station.

983. No person registered as the clerk of one pleader or mukhtar shall do business in the courts or offices thereof on behalf of any other pleader or mukhtar except in the case of illness or absence on leave of any registered clerk, when the presiding Judge of the court may on the written requisition of the pleader or mukhtar under whom the clerk is engaged permit the registered clerk of another pleader or mukhtar to discharge the absentee's duties for a period not exceeding fifteen days.

984. No clerk registered as the clerk of a particular pleader or mukhtar shall, except in the absence of his employer, pass or hand over to another pleader or mukhtar any paper written by him to be filed in a case unless such paper also bears his employer's signature.

985. The rules regarding registration of pleaders' clerks shall also apply to the clerks of vakils and advocates ordinarily practising in subordinate courts.

986. The courts shall allow the registered clerks of lawyers practising before them—

(1) to present applications signed by their masters, for—

- (a) copies or information.
- (b) supply of forms,
- (c) return of documents,
- (d) repayment of deposits,
- (e) inspection,
- (f) all applications of a routine nature,

(2) to take delivery of copies or information,

(3) to tender money,

(4) to identify persons verifying affidavits before the sheristadar,

(5) to take notes from cause lists, books of information, etc., regarding dates of hearing, processes and process-fees due, etc., etc.

987. Clerks will not be allowed to inspect or handle records.

11. The names of the successful candidates shall be published in the (1) *Calcutta Gazette* and (2) *Assam Gazette* and certificates under the signatures of the Chairman and Secretary of the Committee, shall be forwarded for distribution to the successful candidates by the Judges of their respective districts.

12. Government will, from time to time in consultation with the Committee, determine the amounts of the fees to be paid by candidates, and the emoluments to be received by the Secretary and the Examiners, and similar matters. On all points in which the interests of Government are affected, the Committee shall consult Government.

13. The Committee will from time to time determine the number of papers to be set, the number of questions to be comprised in each, the marks to be allotted to each paper, the marks required for a pass, and similar matters:

Provided that the amount of the fees to be paid by candidates under Rule 12, and the matters determined by the Committee specified in Rule 13, shall be set out in the notification to be published under Rule 4.

14. The examination of candidates for mukhtarship held at Gauhati and Sylhet will be conducted, under the orders of the Committee of Legal Education, by a Superintendent, to be appointed by the Government of Assam. Such Superintendent may be a judicial officer, or other officer of Government who may be available for the duty, provided that, as a general rule, District Judges and Subordinate Judges should not be so employed. The Superintendent will receive no fees.

PART IX.—Establishment, Libraries, Office Rules, Administrative Work, &c., &c., and Annual Inspections.

CHAPTER 43.

ESTABLISHMENT.

1. Process-serving peons.*

988. There shall be a joint process-serving establishment for all courts at the same station under the direct control of the nazir, who will be responsible to the various courts for proper service and execution of processes made over to him for the purpose. A register of process-serving peons shall be maintained at each station in Form No. (R)16, Volume II.

989. A monthly salary of Rs. 16—1-5—20 shall be allowed to peons employed in the service or execution of processes of the civil courts in Bengal. A compensatory allowance of Rs. 2 per mensem shall also be allowed to peons at Calcutta, Howrah (Sadar), Darjeeling and the 24-Parganas (Sadar)

Note.—The rule came into force with effect from 1st July 1932; it does not apply to men employed as process-serving peons before that date.

990. The following monthly salaries shall be allowed to peons employed in the service or execution of processes of the civil courts in Assam :—

In plains districts—Rs. 13—1-3—16—1-5—18 per mensem.

In hill districts except the Khasi and Jaintia Hills—Rs. 15—1-3—18—1-5—20 per mensem.

In the Khasi and Jaintia Hills—Rs. 18—1-5—22 per mensem.

991. A conduct register of peons with a sufficient number of pages for each shall be maintained in every nazarat and all cases of irregularity, failure of duty or misconduct on the part of a peon should be noted therein with details of action taken.

Note.—Punishment of every kind awarded to peons should be noted in the service book with particulars of the offence.

992. No peon should be retained or appointed for the service of the processes who cannot read and write efficiently, or who is not capable of fully and intelligently carrying out the duties of a process-server

*The rules in this chapter regarding remuneration of peons number of peons, etc., have been made under sections 20 (ii) and 22 of the Court Fees Act.

<i>Chittagong.</i>				<i>Jessore</i>			
Sadar	..	.	700	Sadar	..	..	750
Cox's Bazar	.	..	600	Bongaon	..	..	800
Fatikehari	.	.	700	Jhenidah	..	..	800
North Raojan	..	..	700	Magura	..	..	800
Patiya	..	..	650	Narail	..	..	750
Satkania	..	..	650				
South Raojan	..	..	650				
				<i>Khulna</i>			
				Sadar	..	.	700
				Bagerhat	.	..	700
				Satkhira	..	..	700
<i>Dacca.</i>							
Sadar	..	..	750				
Manikganj	..	.	750				
Munshiganj	.	..	650				
Narayanganj	.	.	750				
				<i>Midnapore</i>			
				Sadar	..	..	800
				Contai	..	..	800
				Danton	.	..	850
				Garbeta	.	.	900
				Ghatal	..	.	750
				Jhargram	..	..	850
				Tamluk	..	..	800
<i>Dinajpur</i>							
Sadar	.	.	900				
Balurghat	..	..	900				
Raiganj	..	..	900				
Thakurgaon	..	..	850				
				<i>Murshdabad.</i>			
				Sadar	..	..	900
				Jangipur	..	..	900
				Kandi	..	..	900
				Lalbagh	..	..	900
<i>Jalpaiguri.</i>							
Jalpaiguri (except Alipur Duars).			850				
				<i>Mymensingh.</i>			
				Sadar	..	..	650
				Bajitpur	.	.	650
				Iswarganj	.	..	700
				Jamalpur	..	..	700
				Kishoreganj	..	.	700
				Netrokona	..	..	700
				Sherpur	..	.	650
				Tangail	..	..	650
<i>Faridpur.</i>							
Sadar	..	.	750				
Bhanga	.	.	750				
Chikandi	..	.	700				
Goaland	..	..	750				
Gopalganj	..	..	700				
Madaripur	..	.	700				
				<i>Nadia.</i>			
				Krishnagar (Sadar)	..	..	800
				Chuadanga	..	..	900
				Kushtia	..	.	850
				Meherpur	.	..	900
				Ranaghat	..	..	850
<i>Hooghly</i>							
Sadar	..	.	700				
Serampore	..	..	800				
Arambagh	..	.	650				
				<i>Howrah</i>			
				Sadar	..	.	800
				Uluberia	.	..	750
				Amta	..	..	800

one and the same case are served on five different persons in the same village in one visit by a process-server, this will be reckoned as a service of one original process, while where they are served in the same village on five separate visits, or in five different villages, this will be reckoned as a service of five original processes

Note 2.—Three processes will be counted for each emergent process.

Note 3.—Each day on which a peon is occupied in keeping custody of attached movable property, standing crops or of a person under arrest, in attending on commissioners deputed to deliver possession or in taking records, letters, etc., from one station to another, should be reckoned as service of three original processes.

998. The number of peons to be employed shall be determined every year for each station with due regard to the average number of original processes issued during the immediately preceding three years based on the standard of process-serving laid down in sub-rule (2) of rule 997 and the areas to be served by the nazarat and any other special circumstances affecting the number of processes which one officer may fairly be expected to serve in a given time. A yearly report of the calculation thus made shall be sent to the High Court so that it may be seen whether the peon personnel represents the actual requirement based on the standard of process-serving laid down in rule 997, sub-rule (2).

999. In order to ensure that processes are fairly distributed among process-servers and that a fair average of successful work is attained by each process-server, a statement in Form No. (R) 18 shall be prepared by the nazir and placed before the Judge in charge of the nazarat at the close of each month for scrutiny. A copy of the statement with the remarks of the Judge in charge and the disciplinary action taken in the case of offending peons shall then be forwarded to the District Judge who will compare the work done by each process-server in the several courts in his jurisdiction and see whether the rules regarding distribution and service of processes are being strictly observed, and whether proper disciplinary action has been taken against delinquent process-servers.

1000. Every nazir shall, at the end of each month, place before the Judge in charge a statement of the number of processes, calculated as in rule 997 and the notes thereto which may have been executed by the process-servers within the month; and such statement shall show the number declared by each court as emergent. A copy of the statement shall also be sent to the District Judge

1001. The District Judge may authorise the appointment of such total number of peons for the whole district as may suffice for the execution of all the processes issued for service within it and from time to time apportion such peons among different stations as may appear necessary according to the number of original processes to be served.

1002. The number of peons at the district headquarters or at any outlying court, shall be reduced whenever the average number of processes for each man falls short of the prescribed minimum by more than ten *per centum*, provided that, if sufficient cause appears for lowering the minimum, the District Judge may report the matter for the orders of the High Court. It is likewise competent to the District Judge to authorise an increase in the number of peons when the number of processes increases by the same percentage

1006. (1) A ministerial officer whose tenure of the office either of District Judge's sheristadar or of nazir at district headquarters, or of both those posts in succession, whether continuous or not, totals five years, becomes on completion of such period compulsorily transferable to another district, under the orders, and by the direction of the High Court.

(2) A ministerial officer (whether continuously or not) who has completed three years as District Judge's sheristadar or as nazir at district headquarters or in both those posts in succession and who was previous thereto holding any other post or posts at the sadar station for two years or more, also becomes eligible for transfer, if the High Court consider it desirable

(3) The High Court reserves to itself the right to transfer any such ministerial officer at any time, before the completion of the tenure of office laid down in sub-rules (1) and (2) of this rule, whenever a review of the case of any such officer shows that in the interests of the service his transfer is desirable before the prescribed period.

1007. (1) The District Judge should from time to time consider the question of transferring the ministerial officers of one station to another station in the district whenever they have been in the same station or in the same post for an unduly long period.

(2) If it is found desirable to transfer a ministerial officer from a station but there is no corresponding post of the same grade in any other station within the district, the matter should be reported to the High Court, so that his transfer to another district may be arranged.

Note.—For the purpose of this rule any period exceeding five years should be considered an unduly long period

1008. (1) No ministerial officer holding a responsible position and dealing with accounts and money is to be allowed to hold his appointment uninterruptedly for an indefinite period. After holding it for not more than five years, he must be transferred to another appointment in the same or another office or department.

(2) This rule applies to nazirs, accountants and cashiers of all courts as well as to sheristadars and mohurrirs of Munsif's courts when they are employed in keeping accounts, there being no separate accountant.

Note 1.—The taking of leave for a period of not less than six months at a time after holding such post for five years continuously may be deemed as interruption provided an independent officer acts in the post and the presiding Judge is satisfied that no exception could be taken to the conduct of the officer on leave during the term he held the office. Reappointment to the same post should however be avoided as far as possible

Note 2.—The transfer under the rule may be to a post under another court in the same or a different station, or to a post under the same court unconnected with the keeping of accounts or cash.

Note 3.—This rule does not generally apply to assistant accountants or naib-nazir, who only assist the accountant or cashier, but such officers are liable to be transferred under rule 1007

1009. It is undesirable that a ministerial officer should hold the same post in the same department or office for an unduly long period. Head clerks, Bench clerks, Execution clerks and others who have to come in frequent contact with the public should be moved by the presiding Judge of the court to which they are attached from one post to another within his office or in a department under him at such intervals as efficiency or the interest of public service demands. Periodical interchange of posts between ministerial officers also conduces to better

of employees, that percentage being calculated on the total of the ministerial establishment of the district, and not on the strength of each outlying station or department of the office. These probationers are intended primarily to fill leave vacancies in the Lower Division. When a probationer is acting in a leave vacancy in the permanent establishment or is employed in a temporary appointment or is absent from office for any reason, his place may not be filled up temporarily by appointing a temporary or acting probationer or by any other expedient.

(2) *Selection of probationers.*—Probationers must be selected by the District Judge personally and a candidate for a vacancy in the list of probationers must fulfil the following conditions:—

- (a) He must have passed the Matriculation Examination.
- (b) He must not be over 22 years of age.
- (c) He must produce a certificate of good moral character from the school in which he has last been educated, or from some respectable householder to whom he is well known in private life and who is himself known to a respectable officer of Government, the last fact being certified by the counter-signature of the officer in question.

Note 1.—In selecting probationers, candidates otherwise fit who are proved by a test to know both shorthand and typewriting and who write a good hand and are proficient in correct spelling and figure-work should always receive preference and those who are similarly found to know typewriting only, should, if otherwise fit, receive preference over candidates who know neither.

Note 2.—The District Judge shall interview personally as many as possible of such of the candidates as appear to be suitable on a perusal of their applications before making his final selection

(3) District Judges should take particular care to recruit probationers from the Muhammadan community and the scheduled castes in sufficient numbers in accordance with the principles laid down in paragraph 55 of the Board's Miscellaneous Rules, 1918, Chapter IV, and Government of Bengal, Appointment Department (Memorandum No. 3540-3554A., dated the 28th April, 1931), respectively.

(4) *Relationship to other ministerial officers*—Every candidate for appointment, whether by examination or otherwise, must state his relationship, if any, to any of the ministerial officers in all the offices of the district. Any incorrect or incomplete statement will render him liable to summary dismissal. Relationship to ministerial officers does not disqualify a candidate, but there must be no concealment of the truth.

(5) *Period of probation*—The period of probation should be limited ordinarily to two years, though a probationer of proved incapacity should be removed as soon as possible. If on completing two years' service a probationer is not definitely accepted as qualified for permanent appointment in the Lower Division he should be at once removed. But if he has already held acting appointments and given satisfaction therein, and if it is his misfortune rather than his fault that he has not been permanently appointed, the District Judge may exercise his discretion to retain him longer.

(6) *Conditions and prospects of probationers' service*—(i) Probationers are liable to summary removal for incompetency or misconduct, without the formal proceedings requisite in the case of officers holding paid appointments.

if any ministerial officer is passed over for promotion in strict accordance with seniority, and if the senior probationer is not appointed to the last vacancy.

- (b) In the case of a permanent vacancy in the Upper Division, and of a permanent vacancy in the Lower Division in which the District Judge contemplates introducing an outsider, a notice of the vacancy shall be suspended in a prominent place in the district and outlying stations and a date, not less than 15 days after the issue of the notice, shall be fixed for filling up the vacancy.
- (c) On the date fixed for filling up the vacancy, the District Judge shall examine all the applications and shall record a proceeding stating that he has done so, and giving his reasons for the selection ultimately made.

(11) *Instructions for proper advertisement for securing suitable Muhammadan candidates and candidates from the scheduled castes.*—When there is a vacancy in a permanent or temporary appointment which it is intended to fill by appointing an outsider or when there is a vacancy in the list of probationers, and it is necessary to select a Muhammadan or member of the scheduled castes in order to maintain the prescribed standard of such employment, and a qualified Muhammadan or member of scheduled castes is not otherwise forthcoming, the vacancy shall be advertised (a) by suspending a notice of the vacancy in a prominent place in the district and outlying stations 15 days before the date fixed for filling up the appointment, (b) by enquiry from a recognised Muhammadan or Scheduled Castes Association, and (c) by sending a notice of the vacancy to the Assistant Director of Public Instruction for Muhammadan Education or other officer selected by Government in case of the scheduled castes, in the form given below:—

Name of office.	Appoint- ment.	Nature of vacancy, i.e., per- manent or temporary	Pay of the appoint- ment	Qualifica- tion required.	To whom applica- tions are to be sent	Remarks &c., preference will be given to Muham- madan and scheduled castes candidates.

CHAPTER 44.

LIBRARIES.

1014. In each office an official, to be nominated by the presiding Judge in writing, shall be placed in charge of the library. He will be primarily responsible for the custody and preservation of the books therein; but this will not relieve the presiding Judge from the general responsibility devolving on him as the head of the office.

It shall be the duty of the librarian—

- (1) to stamp the seal of the Court on the title page and several leaves of each book;
- (2) to affix on the lower portion of the back of every book received a label with a number corresponding to a number in the catalogue;
- (3) to keep a classified and indexed catalogue of all books in the prescribed form and to prepare a new catalogue every five years;
- (4) to check the catalogue with the books at the commencement of each year and to submit a report to the presiding Judge;
- (5) to issue books from the library in accordance with rule 1017 and to see that no books are issued otherwise.

1015. Books shall be classified in the catalogue and arranged in the library in the manner following:—

- (i) Regulations and Acts.
- (ii) Special Acts (when printed separately).
- (iii) Commentaries on Acts, Text books or General treatises.
- (iv) Law Digests and Index of Cases.
- (v) Departmental Codes, Guides, Manuals and Circulars.
- (vi) Law Reports (all kinds).
- (vii) Periodicals.
- (viii) Administration Reports (India, Bengal, other Provinces, Miscellaneous departments).
- (ix) Dictionaries, Glossaries, Lists, Directories.
- (x) Miscellaneous.

Note.—Where the library is small, classification should be according to subject and the books arranged in the shelves accordingly.

1016. (1) Correct catalogues of stout paper must be kept of the books in the library in the following form in manuscript. The binding of a catalogue should be limp, unless its size is such as requires stronger

constantly required for use in court and for this purpose the annual budget allotment for book-purchase should be evenly distributed between the several courts in a district after spending what is required for the District Judge's library.

1020. Every ministerial officer upon receiving charge of an office to which a library is attached, is to satisfy himself that the books are complete and in good condition, and that the catalogue and lists are duly kept up-to-date. Unless he then reports deficiencies, it will be assumed that he received the library in good order, and he will be thenceforward personally responsible for defects.

1021. The officer in charge of the library should occasionally inspect the almirahs to see that the books are not destroyed by white ants or lost.

1022. Presiding Judges should from time to time inspect the books and weed out duplicate copies of superseded editions and books which are of no further use. They may be sold to the best advantage.

1023. In outlying stations, the copy of the "Calcutta Gazette" received by the senior judicial officer should be circulated by his sheristadar to the other judicial officers with a slip attached.

1024. Reports, gazettes, and other books supplied to judicial or other officers are not to be taken away by the incumbents on their promotion or transfer, but are to be transferred to their successor in office.

CHAPTER 45.

FORMS AND STATIONERY.

1025. At every station, an officer should be specially placed in charge of the stock of forms required for all the courts; and supplies, if requisitioned, should be issued by him ordinarily once a week to the chief ministerial officer of each court, and to parties daily at an hour to be fixed by the Judge in charge of forms.

1026. A list of forms with their numbers assigned to each should be prepared showing the due dates for the indents to be submitted as well as the due dates for receipt of the indents, and kept hung on a card. The list should be corrected from time to time as new forms are added or any of the existing ones declared obsolete.

1027. The forms shall be arranged on the racks by groups in accordance with the classification given in Volume II and the name of each form with schedule and serial number shall be shown against it on the shelf. A board indicating the name of each group of forms will be exhibited against such group.

1028. A stock book of forms shall be correctly maintained by the clerk placed in charge of them in the prescribed form No. (R) 39 (in Bengal) and (R) 39-A (in Assam), Volume II. A separate page or a sufficient number of pages should be given to each form, so that under each item the transactions of several years may be recorded continuously. The balance shall be struck after each transaction and the balance on the 30th June and the 31st December of each year shall be verified by counting the forms on the racks, and a note of the verification made on each page of the stock book.

1029. The Judge in charge of forms should see that indents are prepared with care in such a way as to render supplementary indents during the year unnecessary and to prevent the inclusion therein of which there is already a sufficient stock. Before the submission of an indent, the clerk should prepare a statement showing the actuals for the immediately preceding three years, the average for these years, the balance in hand and the estimated consumption up till the date of the receipt of the indent. Estimates prepared on the above data can be conveniently checked and brought as near as possible to actual requirements. Forms enough to last for a whole year and to leave a margin of three months' consumption at the end of that year shall be entered in the indent. When forms are published in books the number of books should be stated.

Note.—It should be seen that indents are sent for new or revised forms as soon as possible after they are printed and that no manuscript forms of which a printed copy is available is used through failure to send indent in time.

1030. Issue of forms is to be made on written requisitions containing the following particulars: (i) Description of forms, (ii) purpose for which required, (iii) number required and (iv) name of person; the

CHAPTER 46.

OFFICE RULES AND ADMINISTRATIVE WORK.

1. Office and Routine.

1034. No one not being a member of the office establishment will be permitted to enter any office room without the special permission of the presiding Judge.

Note.—See the Note to rule 502

1035. (1) (a) The sheristadar of every Court will be held responsible for the due and prompt performance of all duties connected with the management and supervision of the office and the departments attached to the Court. He is responsible for the condition of the office, the records kept there and the work done by the staff employed.

(b) It is his duty to insist on the regular and efficient discharge of all kinds of business for which any and every member of the establishment is responsible, to exercise proper personal control and supervision over them, to make himself thoroughly acquainted with each man's work and check it frequently, to give proper instructions regarding the maintenance of registers, etc., and the performance of other duties and to see that the Rules and Orders of the High Court are strictly carried out.

(c) He should inspect from time to time the work of each member of the staff and submit periodical reports to the presiding Judge regarding the condition of the office and the work of the other ministerial officers. At the first sign of arrears in the work of any officer, or of such a pressure of work as is likely to cause arrears the matter must be reported at once to the presiding Judge and all cases of unreasonable delay in the disposal of business, misconduct and neglect or improper discharge of duty should be promptly brought to his notice. Whenever a ministerial officer of the establishment is about to go on leave or transfer, the sheristadar should report to the presiding Judge arrears in his work, if any.

(2) A pending list should be kept in every judicial office by the sheristadar in the prescribed form No. (R) 38-A, Vol. II, for inspection by the presiding Judge with a view to check arrears or delay in the disposal of business. The serial numbers are to be struck off when a reply is received (or issued) or when the letter is disposed of (for letters received) or when any business is otherwise finished. When no reply is expected or when there is nothing to be done the number should be struck off at once.

Note 1.—This register shall be frequently laid before the presiding Judge for his examination and at least once a week on every Monday, and the fact of such examinations having been made together with such instructions or remarks as may appear necessary shall be entered by him

Note 2.—All arrears of work in the office at the end of the preceding week regarding entries in the various registers, noting of result of suits and execution cases, writing of table of contents, drawing up of decrees, return of documents, periodical despatch of records, preparation and delivery of payment orders, succession certificates, probates or letters of administration, sale certificates, copies, information, etc., should also be briefly noted in columns 5 and 6 of this register.

to be kept by the ministerial head of the department to which the clerk or muharrir belongs. Such ministerial head of the department will be responsible for having all changes in the nature of the work of each officer under him duly entered on the cards affected. The card will show the dates on which each successive clerk assumed and relinquished charge of his office and also the date of the last distribution of work.

1038. The employment of outsiders by the ministerial officers for helping them in their work or getting office papers written is strictly forbidden. Judicial officers should keep a strict watch on this objectionable practice and any subordinate officer found violating the rule should be severely punished.

2. Correspondence.

1039. (1) Correspondence between judicial officers of all grades and between these and officers of departments of Government of whatever status shall be by letter or memorandum, but the memorandum or the endorsement form should be used whenever it can conveniently be adopted.

(2) When a letter from either a subordinate to a higher authority, or *vice versa*, contains nothing but a piece of information for the future guidance of such authority, or a piece of information sought for to complete any proceedings, or to rectify any error, or a direct affirmative or direct negative, to any question put, it will be quite sufficient if the letter be endorsed or passed on with the signature of each successive authority. When correspondence relates to the transmission of returns, documents, etc. or other routine matters, memoranda or endorsements should be substituted as much as possible for covering letters. Such memoranda and endorsements should be numbered and dated.

1040. (1) The name and official designation of the writer of an official letter, with the number and date of the letter, is to be prefixed to it, number and date of every letter referred to is invariably to be quoted, and every paragraph is to be numbered.

(2) Correspondence should be condensed as much as possible and repetitions and details shall be avoided.

(3) Separate letters or memoranda shall be written on distinct subjects.

(4) Demi-official correspondence shall not be quoted in official correspondence.

1041. The use of *facsimile* stamp in official correspondence even in matters of routine may provide ample opportunities for fraud. All correspondence shall be signed by the forwarding officer and should it not be possible for him to sign all letters, they should be signed for him by some responsible and trusted official.

1042. Judicial officers when signing papers of all sorts are required to take particular care that their official signature is always so distinctly and readily legible that there may never be any room to doubt thereafter that it is genuine and authentic.

1043. Letters and other papers from the District Court to the subordinate courts at every station should ordinarily be sent in separate

(2) All amendments relating to the Civil Rules and Orders, Volumes I and II, should be promptly noted and all correction slips pasted in their proper places as they are received. The volumes should always be kept up-to-date and the index to addenda and corrigenda slips regularly written up.

3. Administrative work, Office management and Supervision.

1047. The attention of all judicial officers is drawn to the importance of constant supervision of the work done by their subordinates and efficient management of their offices or the departments placed under their charge. The High Court have had occasion to observe that this part of their work does not always receive the care and attention it deserves and it is therefore desirable that all concerned should understand that when considering the merits of an officer for promotion or preferment, equal stress is laid upon judicial capacity and administrative ability. Due attention should therefore be paid to administrative work, and failure to show administrative ability will tell against an officer in future.

1048. The administrative work connected with the civil courts will be carried on in the office which will be divided into departments and each such department will be in charge of a judicial officer who shall be responsible for its efficient working and exercise control over the ministerial officers employed therein.

1049. (1) The District Judge shall place each of the common departments like accounts, nazarat, copying, etc., in the immediate charge of a separate judicial officer. Such officers need not ordinarily be Subordinate Judges at the district headquarters or the senior Munsifs at outstations. It is desirable that Subordinate Judges who are engaged in more important work should not have their time for judicial work curtailed by such a charge. The selection, whether at the district headquarters or at outlying stations, is to be made by the District Judge from among the younger and more energetic and enterprising Munsifs who take an active interest in administrative work and rules of procedure.

Note.—The judicial officer in charge of the accounts should also hold charge of the nazarat accounts.

(2) The district record room shall similarly be placed in charge of a judicial officer.

1050. The greater part of the District Judge's time being occupied by sessions work, civil and criminal appellate work and by a variety of miscellaneous judicial proceedings, he is often left with inadequate time to devote to the administrative duties of his office and control over all the civil courts in the district. His English Office should therefore be also placed in charge of one of the several judicial officers posted at the headquarters. Appointment, promotion, leave and transfer of the establishment, supervision over the establishment—clerical as well as menial—disposing of correspondence and necessary business of an ordinary nature, *e g.*, office routine which can be disposed of according to the traditions and rules of office, countersigning payment orders, etc., and such other functions as the District Judge considers suitable may be entrusted to such officer. All reports, applications and other matters

of contents have been correctly written and are up-to-date, lists of exhibited documents have been made and endorsed as required by Order 13, rule 4; processes have been filed within time and promptly made over to the nazarat, processes have been issued promptly and returned by the due date, commissions have been issued without undue delay and reports submitted within time; cases have been entered in the Diary in advance; petitions bear stamps of right value; registers are written regularly and correctly, that no hoarding of records or registers, due for deposit in the record room, is going on in almirahs and other receptacles and corners in the court rooms and attached offices, etc.

1052. (1) The nazarat requires perhaps the greatest amount of supervision. Here an officer of outstanding personality may make his influence most felt and it need hardly be said that in the interest of efficient administration of civil justice, satisfactory and expeditious service of processes is essential. The size of the cadre of peons and its comparative illiteracy demand proper guidance as to the manner of service and verification of returns and a check on sharp practices by the controlling authority. The process-serving peons should be required to make themselves familiar with the rules in the Code and the rules framed by the High Court regarding service and execution of various kinds of processes and it shall be the duty of the nazir to explain these rules in the vernacular. It should be impressed upon them that in all cases of doubt or difficulty while discharging their duties in and out of court, they must obtain the direction of the court with whose processes they have been entrusted for service. Complaints against process-servers should be promptly enquired into and adequate steps taken.

Note.—Occasional inspection of the diary of the process-server and the register of processes distributed, distribution of processes from time to time in the immediate presence of the Judge in charge in order to ensure fair distribution and fair average of work, insistence on personal service whenever possible, redistribution of beats at necessary intervals so that each process-server is given a certain amount of long beat work in order to equalise work, seeing that processes are served and returned by the due date, and processes marked "urgent" or writs like that of injunction, attachment before judgment, etc., are issued immediately and served with the least possible delay, etc., are some of the many things that require attention.

(2) The cashier handles a large sum of money. He receives the pay and travelling allowance of the establishment, money tendered by chalans, payments into peremptory cash, landlord's fees, auction sale money, decretal amounts realised by process-servers in execution proceedings, sale-proceeds of forms, old furniture, destructible records, etc. He spends money on various items and remits money to the Collector, Commissioners and officers receiving pay during leave. His cash and other books should be inspected as often as time permits in order to see that all amounts received are properly accounted for and quickly disbursed by remittances to the treasury and payments to proper persons

1053. The Judge in charge of accounts works under a system, which if properly studied and understood will enable him to exercise adequate control without the necessity of bestowing particular attention on any item other than delays in passing payment order and sending refund applications for lapsed deposits and advice lists to the headquarters. What is required is an intelligent appreciation of the system and a grasp of the details so that he may exercise direction and control and check irregularities and fraud without allowing himself to be led by

CHAPTER 47.

MISCELLANEOUS INSTRUCTIONS.

1. General.

1056. (1) All communications intended for the High Court in its Original Jurisdiction should be plainly marked "Original Side" and addressed to the Registrar, Original Side. All communications intended for the High Court in its Appellate Jurisdiction should be plainly marked "Appellate Side" and addressed to the Registrar, Appellate Side, unless they relate to case work in the Appellate or Revisional Jurisdiction in which case they should be addressed to the Deputy Registrar. For telegrams sent to the Registrar, the State Code address "High Court" with the addition of the words "Original" or "Appellate", as the case may be, will be sufficient.

(2) In the case of letters, the particular department with which the communication is concerned, should, when possible, be added to the address, *e.g.*, covers containing for instance, a notice under the Indian Succession Act sent by District Courts in regard to estates having assets within the jurisdiction of the High Court should be addressed to "The Registrar of the High Court, Original Side, Calcutta, Testamentary and Intestate Jurisdiction."

Note.—Lists showing the several departments on each side of the High Court are enclosed with General Letter No. 4 of 17th April, 1907.

(3) Instances having occurred in which envelopes addressed to the High Court when opened were found to be empty and enquiries in regard to them were fruitless owing to the fact that there were no numbers of despatch on the envelopes, all envelopes addressed to the High Court should bear the despatch numbers of their contents and, as far as possible, the number of enclosures to each letter, *e.g.*, "No. 2764S. and two enclosures."

(4) Omission to state numbers outside the cover is one which gives rise to difficulties in tracing its contents, if the cover happens to arrive without them. Space is provided on all official envelopes for such numbers and all senders of communications to the High Court should see that this space is invariably filled up on the envelope and not on the economy slip which is liable to get detached *en route*.

(5) Further instructions as to how communications meant for the Appellate Side of this Court should be addressed are given below:—

(i) The words "Appellate Side" should on no account be omitted as their omission is likely to cause delay by communications meant for that Side being delivered to the Original Side, which is an entirely different office.

(ii) All correspondence dealing with judicial matters (civil and criminal) and matters concerning the ministerial establishment of the Court on its Appellate Side generally should be addressed to "The Deputy Registrar, High Court, Appellate Side."

opinion on matters fit for judicial determination. Order 46, rule 1, Civil Procedure Code, is the proper medium for the latter type of case when the subject is suitable.

1063. (1) Where there are more than one court of the same class, it is incorrect to designate the judicial officers presiding over them as "First Munsif", "Second Munsif", etc., according to seniority. The proper mode would be to describe each officer in the proceedings instituted in his court by name with the addition of his title "Munsif of _____" or "Subordinate Judge of _____" and without any further distinction.

(2) For the purposes of the periodical returns, where there are more than one court of any class at any station such courts will be designated first, second and third courts, but without any reference to the seniority of the Judges presiding therein.

1064. Circular orders addressed to "all civil courts" are intended to apply also to Courts of Small Causes.

1065. All communications from Small Cause Courts to the High Court, should be submitted, in the first instance, to the District Judge, to whom the Small Cause Court is subordinate (*vide* sec. 3, C. P. Code).

1066. District Judges shall, in dealing with the budget estimates, or contingent bills, of Small Cause Courts, be guided by the general rules applicable in the case of the other subordinate civil courts.

1067. (1) A District Judge should not without first consulting the High Court appoint a person to act in any vacancy occurring in the office of Munsif under section 12 of the Bengal, Agra and Assam Civil Courts Act, XII of 1887. In cases of urgency the reference should be made by telegraph. Such appointment, if any, should be distinguished in any salary bill presented by the person appointed by words such as "Temporary, officiating by order of District Judge under section 12 of Act XII of 1887", and every such appointment should be reported to the Accountant-General.

(2) The report to the Accountant-General should contain the name of the officer appointed, whether he is a Government servant, the office to which he is appointed, and the occasion of the appointment. The date of joining should also be communicated either with the first report (which will be in sufficient time if sent when the officer joins) or in a subsequent separate report. The District Judge should also give intimation to the officer in charge of the treasury from which the Munsif's pay will be disbursed.

1068. District Judges should inform the High Court when for any special cause, they consider it advisable that a particular Munsif should be invested, under section 25 of Act XII of 1887, with the jurisdiction of a Court of Small Causes (*see* also Article 8, Second Schedule Act IX of 1887), stating both the local circumstances which appear to call for the measure, and the Munsif's fitness to exercise such powers. Among the circumstances which should be stated are the following—whether there is more than one Munsif at the station indicated, and if so, what is the distribution of business between the Munsifs, and within what limits it is intended that the proposed jurisdiction should be exercised.

1069. (1) District Judges are required to report to the High Court any formal transfer of charge in any civil court subordinate to them, including the assumption by the sheristadar of charge of the current

be submitted through the District Judge either in January or in July before the date on which he is due to retire.

1073. No gazetted officer of the judicial service shall be permitted to reside elsewhere than at the headquarters of the station to which he is for the time being posted, except with special sanction. In forwarding an application to the High Court, the District Judge should state whether in his opinion the grounds on which exemption from the rule is based are well founded.

Note.—Presiding Judges may in special circumstances grant permission to a ministerial officer to reside elsewhere than at the headquarters of the station, provided that the work which he has to do, does not in any way suffer. In granting permission regard should be had to the nature of his duties and the department in which the ministerial officer is serving

1074. (1) The attention of Judges of all grades is invited to “The Government Servants’ Conduct Rules” regulating the conduct of public servants in respect to lending and borrowing money, receipt of complimentary or valedictory addresses, and the like.

(2) As to gifts, the rule is that subject to the provisions of any general or special order of the local Government, any Government servant may accept from any Indian a complimentary present of flowers or fruit or similar articles of trifling value, but all Government servants shall use their best endeavours to discourage the tender of such gifts.

1075. Judges of all grades should avoid, as far as possible, becoming the guests of or entertaining those private individuals or Government servants who are or may be interested in civil or criminal cases or in matters, which may eventually come before them for decision. Any possible imputation of suspicion or bias will thus be removed.

1076. No judicial officer shall be allowed to practise as a pleader or advocate during the term of any leave that he may obtain from the High Court.

1077. An officer of the Bengal Civil Service (Judicial) should not hold the office of Municipal Commissioner as the acts of municipalities are frequently called in question and come up before him judicially. It is also undesirable that judicial officers should mix themselves up in local affairs, politically or otherwise.

1078. The appointment of an officer of the Bengal Civil Service (Judicial) to be a member of a district or local board should only be made when it is certain that the officer will have leisure to undertake the duties involved.

1079. In places where courts are built of inflammable materials but there are fireproof record rooms, as much use as possible should be made of the record room in storing the records of pending cases as a measure of comparative safety.

Note.—While it may not always be possible to remove daily to the record room all records, registers, etc., the aim should be to see that as many of the records, registers, documents, etc., as can be housed in a safer building should not remain overnight in the court or office room of *Futch* buildings

1080. When records, registers, etc., are destroyed or damaged by fire, the fact should at once be reported to the High Court and the

- (iii) a black coat of any pattern or black *chapkan* or *achkan*, and
- (iv) if the coat is left unbuttoned, a black waist-coat.

Note 1.—Sessions (including Assistant Sessions) Judges and Judges of the Calcutta Small Cause Court (including the Registrar), shall also wear the above dress.

Note 2.—The wearing of the full robes is compulsory for all judicial officers and no deviation of the rule will be allowed, except in special circumstances to be submitted to the High Court for its orders.

Note 3.—The District Judge should at the time of inspection or on other occasions ascertain whether judicial officers sit daily correctly robed.

Note 4.—The rule does not apply to executive officers invested with the powers of a civil judge.

4. Temporary additions to the judicial staff and transfer of cases.

1084. (1) No application for temporary additions to the staff of judicial officers of a district will be considered, unless it is accompanied by statements in the prescribed form and a full and unequivocal recital of the causes which have brought about the necessity for assistance. It is desirable that the High Court should know how far that necessity arises from causes beyond the control of the officers concerned, and how far it is due to the incompetence or slackness of individual officers. Without such information, the High Court are unable to fix, with any certainty, the number of officers required for different districts from time to time.

(2) In the case of a proposal for the retention of an officer, application should be made to the High Court as well as to Government not less than six weeks before the expiry of the term of appointment already sanctioned and the fact that a copy of it has been sent to Government direct should invariably be mentioned in the said application. But an application for a new appointment should be submitted to the High Court only in duplicate.

Note.—Further instructions as to how the statement should be prepared are contained in General Letters No. 24, dated the 26th May, 1932, No. 33, dated the 6th September, 1932, and No. 5 dated the 7th March, 1933.

(3) If a District Judge, when making such an application, is of opinion that the existing staff of officers has been and is working to its full power, a certificate to this effect should be given.

Note.—For form of statement which should accompany such applications, see Form No (M) 34, Volume II.

(4) The statement accompanying an application for assistance should show the work done by each officer individually, of the superior staff at headquarters or of the Munsif, as the case may be, during the two years preceding the year in which the application is made, and for each completed quarter of the latter year. Details of files pending at the time of making the application should also be furnished.

1085. The High Court have observed that the usual result of giving relief to courts, by appointment of Additional District Judges is not a commensurate increase in the outturn of the courts. When an Additional Judge is appointed to a court, the outturn should naturally, either

(2) (a) To the additional officer will be assigned all new cases instituted after the arrival of the additional officer as they are instituted but since there may be an interval of two or three weeks before the additional officer will find a sufficient amount of work to occupy his time, for each day of that interval on which the new work is insufficient the District Judge will transfer a sufficient number of previously instituted cases from the file of the permanent officer or any other court in the place, but will take care to transfer only such cases as are ready for hearing and are likely to be disposed of and finished within the interval.

(b) When cases are allowed to accumulate upon the file of any court in the hope that an extra officer will eventually have to be sent to render help, the whole object of the creation of the additional post is defeated if the original officer who is responsible for the accretion of arrears is allowed an opportunity to get rid of the older, more keenly contested and, therefore most difficult cases. Nor is it conducive to the expeditious despatch of work that the new officer, who is, as a rule, comparatively junior and inexperienced, should have made over to him stiff long pending cases with which the permanent officer is more familiar from having dealt with them in their earlier stages.

(3) The permanent officer being thus relieved from new work should be able to make a vigorous effort to overtake arrears. He should be able to dispose of cases already fixed by him each successive day. If, however, the work already fixed for any one day is likely to fall short, the permanent officer should accelerate the hearing of cases fixed for a date subsequent to the interval referred to above and so arrange that he has a proper amount of work to dispose of.

Note.—Rule 1087 does not apply when a court is posted temporarily to relieve the congestion in a court or number of courts in one station due to their being a general accumulation of arrears and institution to such an amount as to make the reduction of work impossible by the efforts of the ordinary staff. In such cases the principle of distribution of work will be as in last preceding rule (1086).

1088. The institution of all classes of suits in the different Courts of the same grade at a station should be examined from time to time in order to see whether a re-apportionment of territorial jurisdiction is necessary to equalise the work received in the courts.

5. Casual leave.

1089. (1) Casual leave is not provided for in the Fundamental Rules and is a concession to enable Government servants in special circumstances to be absent from duty for short periods without such absence being treated as leave under the Fundamental Rules

(2) No Government servant may be absent on casual leave for more than 10 days in the course of one calendar year according to Government order

(3) If, in any exceptional circumstances, the sanctioning authority grants, for urgent special reasons, a few days more than ten days, the grant with the reasons, must be reported at once to the High Court for the information of Government.

6. Leave under the Fundamental Rules and Civil Service Regulations.

1091. District Judges and Additional District Judges applying to Government for regular leave on medical grounds or otherwise should invariably forward a copy of their application for the information of the High Court

1092. (1) Applications for leave from Munsifs should be submitted, in duplicate, one copy being invariably forwarded by District Judges to the High Court direct with their recommendation and the other through the Accountant-General, Bengal.

(2) Applications for leave made by Subordinate Judges should be submitted by District Judges direct to the High Court for transmission to the Government of Bengal, through the Accountant-General, Bengal.

1093. Application for leave or for extension of leave should be accompanied by full details explaining the necessity for the leave, in order to enable the High Court to judge if leave in any case is justified, and in cases of leave, other than casual leave or leave on medical certificate, due notice which in ordinary cases should not be less than one month before the date from which the leave is required should always be given. [General Letters No. 25 of 1932 and No. 8 of 1929].

1094. District Judges should not, without first consulting the High Court, permit Munsifs and Subordinate Judges to leave their stations or to avail themselves of leave, in anticipation of the grant of formal leave. In cases of urgency permission should be obtained by telegram.

1095. (1) When an officer, who has been allowed leave for a period howsoever short, desires to cancel the whole or any portion of it and resume his duties, he shall give notice of his intention to the High Court in proper time and await its orders before rejoining.

(2) Permission to return to duty before the expiration of leave should not be given by District Judges to any judicial officer without the orders of the High Court, previously obtained.

Note.—Resumption of duties before the termination of the leave without obtaining the previous permission of the High Court apart from being irregular involves serious possibilities. [G. L. No. 23, dated 28th November, 1933]

7. Medical leave.

1096. (1) In every application for leave or extension of leave on medical grounds it must be clearly and invariably stated whether or not the leave or furlough applied for is on medical certificate under the proviso to rule 81 (b) (ii) of the Fundamental and Subsidiary Rules or under the Civil Service Regulations, as the case may be. In either case the application must be accompanied by a certificate and a statement of the applicant's case in the form prescribed by Subsidiary Rule 221 (inserted by slp No. 190) of the Fundamental and Subsidiary Rules, signed by the Civil Surgeon or the official medical attendant of the applicant who, in the case of officers in Calcutta, is the Professor of Midwifery, Medical College, Calcutta. District Judges should before forwarding applications for leave on medical certificate, see that these requirements have been fulfilled.

CHAPTER 48.

ANNUAL INSPECTIONS.

1098. The District Judge is required to inspect personally the work of all the courts and offices under him ordinarily every year and to submit notes of inspection to the High Court as soon as possible after the inspection. An inspection must however be made of the courts at district headquarters once every year and at outlying stations once in two years and an explanation should be given in each case if such inspection is not carried out. The inspection should as far as possible be on consecutive days and not spread over a number of days at intervals. The District Judge should avoid making a long tour for inspection and the journeys undertaken for the purpose should be accomplished with all convenient speed.

Note.—The District Judge cannot delegate his power of inspection of subordinate courts to the Additional Judge or any other judicial officer. If he is unable to inspect personally at the proper time on account of his being occupied with the hearing of any case of unusual length or for any other good reason he should explain the circumstances and take orders of the High Court on the subject.

1099. (1) It is from inspections and the individual contact between District Judges and presiding officers of the subordinate courts that the best results are obtained. It is desirable that at the time of inspection the District Judge should assemble a conference of all the judicial officers at the station with a view to promote closer relation between him and the subordinate judicial officers and to discuss and explain all matters affecting the judicial administration. Their needs, doubts and difficulties may be discussed and views exchanged frankly and freely. A few representatives from the Bar may also be invited at the closing stage so that they too may take part and give expression to grievances, if any.

(2) The District Judge should also convoke a judicial conference at sadar of all judicial officers of the district on a fixed day each year. The conference should not last longer than two days and should where possible be arranged to take place during holidays. Such a conference should afford special facilities to the District Judge for securing a personal knowledge of the officers under him and discussing their doubts and difficulties. A District Judge can make such a conference a convenient opportunity for discussing the affairs of each court with the Judge concerned, for examining the state of his files and for ascertaining the progress of his work, his need for assistance and kindred matters. To facilitate consultation each Judge should bring with him and lay before the District Judge a report of inspection of his office and the departments in his charge unless an inspection has already been held by him within the preceding twelve months. A copy of the Conference Report should be sent to the High Court.

1100. (1) The object of an inspection is to satisfy the District Judge and through him the High Court that the courts are functioning properly, that the rules prescribed are understood, that the work, judicial,

advance, nor should he remain at any station after the District Judge has left it. If the assistance of any ministerial officer has to be taken, it should be confined within clearly defined limits, *e g.*, checking totals, stocks, details of clerical work, etc., and should be restricted only to office work done by ministerial officers of the establishment. He must not look into the diary, order-sheet, records of cases, etc., nor must he offer any remark connected with judicial work, judicial procedure or judicial administration. The name and office of the ministerial officer whose assistance is taken should always be stated in the letter sent with the inspection report

1102. If any seeming defects or irregularities are noticed in the course of the inspection, the officer concerned should be given an opportunity to explain them on the spot

1103. A copy of the notes on inspection should, as soon as possible after the inspection, be sent to the presiding Judge of the court concerned for his information and guidance with such instructions within the scope of his authority as the District Judge may think fit to give.

Note.—When an officer has left the station before or after the inspection and defects and irregularities are found in his work, a copy or extracts from so much of the inspection report as concern him should be forwarded to him wherever he may be.

1104. If the District Judge has occasion to make unfavourable comments on the work of any Court, the name or names of the particular officer or officers who are found responsible for the defects or irregularities should invariably be given in the inspection report.

1105. If there is in the notes of inspection any comment on some irregularities or defects on which the judicial officer concerned desires to offer any explanation, he should send it to the District Judge who shall forward it to the High Court with his remarks thereon.

1106. (1) To facilitate inspection and to save time, a form [No (M) 7] has been prescribed for the inspection of the subordinate courts and in future the inspection notes should as far as possible be restricted to the printed form. Answers to the questions are to be recorded on the space provided on the right side of the form. As to the manner in which the judicial work is performed, the notes should deal comprehensively with irregularities and defects observed in reference to the relevant questions in the form. It is not necessary to enter in the inspection notes every mistake found, though all such mistakes should be intimated to the court inspected. It may be that the District Judge will not have occasion to examine thoroughly at one inspection all the facts necessary to answer all the parts of a question, but every effort should be made to enquire into all of them

(2) The list of questions is not intended to be exhaustive or to restrict the inspection to those points only which it contains. If in his opinion any department or branch of work demands detailed examination involving close attention and strict scrutiny, the District Judge should append a separate report regarding it. The result of the examination of records should be detailed on separate sheets of paper.

Note 1.—For form of inspection, see Appendix I to this Part

Note 2.—Every endeavour should be made to inquire into all the questions noted in the form, but if this is not possible for shortness of time the more

in detail with reference to the records of every case or proceeding entered for those days all the work that was done. This should invariably show how an officer spends his time and in what manner business is conducted.

1112. (1) The district record room should be thoroughly inspected at least once in each year by the District Judge himself, or should he be unable to do so for any reason which should be explained, by such gazetted officer, preferably other than the Judge in charge of the record room, as he may depute for the purpose. An inspection by the District Judge personally must however be made at least once in two years. A copy of the report of each inspection should be sent to the High Court with as little delay as possible.

(2) An officer inspecting the record room should call for the inspection guard file to see what action has been or being taken on previous inspection, and to note any undue delay or omission in this respect.

(3) To facilitate inspection, a form [No. (M) 7A] has been prescribed. The list of questions in this form is by no means exhaustive of the many matters as to which the inspecting officer may usefully inquire. If any particular matter or branch of work requires detailed examination, the inspecting officer should inspect it as fully as possible and append a separate report.

Note.—For form of inspection, see Appendix II to this Part.

APPENDIX I.

FORM No (M) 7.

Form of Inspection. (See rule 1106.)

Instructions

1. An inspection has no particular concern with judicial work. The quality of an officer's judicial work can best be judged by appellate courts, but his capacity as an organiser and supervisor is best judged from an inspection of his court and office. The main object of an inspection is to ensure that the office is working well and is efficiently and periodically supervised by the judicial officer concerned.

2. Attention is invited to rules 1098 to 1111 of chapter 48, Part IX, Civil Rules and Orders, Volume I.

3. It should be particularly ascertained whether the rules prescribed and the directions given by the High Court are properly understood and regularly carried out and whether due regard is paid to the convenience of the litigants and the public. Defects or difficulties occasioned by inexperience or want of appreciation of the rules are best removed by guidance given personally. It is difficult to give it effectively by written orders.

4. Discussions of collateral questions or matters of special interest or importance (e.g., the need for modification or introduction of a rule) or of questions of doubt or difficulty arising upon the Rules and Orders of the High Court and any suggestion in that connection, which should form the subjects of separate communications are out of place in the inspection notes.

5. If more space is required for the answer to any question than the form allows, an additional sheet of paper appended to the form should be used.

6. Elaborate notes on particular registers with full details as to the entries need not be submitted to the High Court by District Judges with their notes of inspection. They are doubtless of great use to the inspecting Judge, and the office concerned to whom errors, omissions and the faulty manner of maintaining registers should be pointed out, but it is not necessary to send them to the High Court unless such details are warranted by any of the set questions in the inspection notes or are considered necessary by him to illustrate the results of his inspection. The District Judge should as far as possible summarise in his own words for the information of the High Court, the result of his scrutiny

Notes of Inspection.

Inspection of the Court of the Subordinate Judge/Munsif of
on .

This Court was last inspected by
on .

Name or names of presiding Judge or Judges since the last inspection and the period during which each held office

Date of joining of the present presiding Judge—His special powers, if any.

When was the last annual inspection made by the presiding Judge?

On what dates did he inspect his office during the twelve months preceding the date of the present inspection?

5. (a) Does the Judge insist on commissions being applied for at the proper stage and costs and other requisites being put into court within the time fixed, before commission is issued? (Rules 273, 274).

(b) Are prayers for commissions at a late stage of the suit generally entertained?

(c) Are orders for local investigation drawn up in the hand of the Judge (Rule 313) and do the proceedings contain full instructions regarding the commissioners' duties? (Note 1 to Rule 314).

(d) (i) Are time-limits fixed in commissions for the examination of witnesses? (Rule 295).

(ii) Are they adhered to?

(e) Is proper control exercised over the commissioners and does the Judge see that commissions are generally executed within the time fixed without repeated extensions?

(f) Are all commissions distributed in strictly fair order (rules 282, 283 and 319)?

(g) Is the remuneration allowed to commissioners suitable?

6 (a) Are interlocutory orders like attachment before judgment or arrest before judgment or injunction granted *ex parte* too freely without sufficient reason and without care to impose terms? (Rules 332 and 333).

(b) Are interlocutory matters finally disposed of within the shortest possible time?

7. Does the presiding officer direct his attention to the following rules and does he exercise a sound discretion in their application? (Separate answers should be given under each heading on those points which can be ascertained from the inspection of records) —

(a) Order 1, rule 8.

(b) Order 5, rule 20.

(c) Order 6, rules 2-13

(d) Order 7, rule 3

(e) Order 7, rules 14-18.

(f) Order 8, rules 2-5.

(g) Order 9, rule 9.

(h) Order 9, rule 13.

(i) Order 10, rules 1-4.

(j) Section 30, Orders 11 and 12.

(k) Order 13, rules 1-2.

(l) Order 17, rules 1-3.

(m) Order 21, rule 17(1).

(n) Order 23, rules 1, 3.

(o) Order 32, rules 3-4.

(p) Order 32, rules 7-8

(q) Order 34, rule 1.

(r) Order 38, rules 1-12.

(s) Order 39, rules 1-10.

(t) Order 40, rule 1.

8. (a) Are order-sheets neatly and properly written up? Is the writing legible?

(b) Is action promptly taken on orders passed and the fact noted with date in the last column of the order-sheet?

(c) Are orders on petition passed without unnecessary delay?

(d) Are orders requiring judicial discretion or discrimination generally drawn up in the hand of the Judge and do they contain adequate reasons?

(e) Are draft orders written by the clerical staff scrutinised before signature?

(d) Are all other lists and information books written properly and made available to the public every day within the prescribed hour? (Rules 15, 185, 626, 657, etc.) And does the Judge see to it that it is done?

(e) Was any complaint made by pleaders, etc., regarding the non-observance of the rules relating to the regular publication of such lists, etc.?

11.—Working of establishment, etc.

15. (a) (i) State number of officers employed.

(ii) Is any member of the establishment over 55? How many extensions has he got? Is he quite fit physically and mentally?

(iii) Is the work of each man duly apportioned? Suggest improvements, if any.

(b) Is the number of clerks sufficient for carrying on the work of the office with efficiency and despatch?

(c) Clerks related to each other? Or to any pleader?

(d) (i) How long have the Accountant, Nazir, the Execution Clerk and the Bench Clerk served in their respective posts (either in this court or elsewhere)?

(e) Has the District Judge considered the question of any officer being transferred to another post or another station if he has been in the same post or at the same station for an unduly long period? (rule 1007).

16 (a) Duty cards maintained and up-to-date? (Rule 1037).

(b) (i) Circular Orders and General Letters carefully and systematically preserved and indexed? All correction slips relating to the Civil Rules and Orders pasted as they are received and the index to addenda and corrigenda slips regularly written up?

(ii) Separate files for Government Circulars, Accountant-General, Bengal's letters, correspondence, returns, etc., maintained?

(c) (i) Attendance register regularly kept and attendance generally regular?

(ii) Has presiding Judge attempted to check irregularity, if any?

(d) Casual leave register properly kept and rules followed? Leave too freely granted?

(e) Returns, reports, opinions, replies, indents, etc., sent with promptitude?

(f) Are the register of papers received and the register of papers despatched properly maintained?

(g) Is the pending list (Rule 1035) regularly written up and do entries show prompt despatch of business?

17. (a) Registers more than 12 years old sent to the record room?

(b) Unexhibited documents kept separately and returned promptly? (Rule 482).

And those not returned within 6 months—destroyed periodically as required by Rule 485?

(c) (i) Records of disposed of cases transmitted to the record room within due date?

(ii) When was the last date of despatch and when were the records despatched?

(d) (i) Orders for attachment or release of estates promptly notified to the Collector (Rules 217 and 218)?

(ii) Quarterly statement of sales of such estates regularly forwarded to the Collector (Rule 248, Chapter I)?

(c) Landlords' transfer fees promptly transmitted and copies of chalan regularly received from Collector? And notices, etc., are then promptly sent to Collector (Rules 381 and 382)?

Register prescribed by Rule 383 properly kept and inspected periodically?

26. (i) Are the rules in Part III regarding classification of suits followed?
 (ii) Are records split up into requisite number of files and properly indexed?
 (iii) Are tables of contents written up as papers are filed?

IV.—Registers.

(Compare the entries with some records taken at random and state).

27. Registers of suits—

(a) Registers of title suits, rent suits, money suits (including small cause) correctly and neatly kept?

(b) (i) Entries up-to-date and made in accordance with the instructions at the foot of the registers?

(ii) Is the information noted too prolix or too brief? Suggest proper mode of entry.

(c) (i) Addition or substitution of parties, particulars of claim, cause of action, etc., correctly and regularly entered?

(ii) Names of parties in rent suits when do not exceed six properly entered?

(iii) Results of disposals of suits and appeals correctly entered?

(iv) Intimation of appeals received regularly from Appellate Courts and results properly entered?

(v) Entries relating to execution cases correct and complete?

(d) Entries made contemporaneously with the passing of orders during the progress of the case or subsequent proceeding, if any?

28 (1) *Statistical registers* written up properly day by day?

(2) Are these registers properly maintained.—

Register of miscellaneous judicial cases;

Register of appeals,

Register of applications to sue in forma pauperis;

Register of applications for execution of decrees,

Register of insolvency petitions

(Take some items from these registers and compare them with the suit register)

(2) *Register of draft sale-certificate—*

(a) Are draft sale certificates properly and promptly drawn up?

(b) Undue delay in complying with applications for sale certificates—

(i) in calling for deposit of stamps?

(ii) in the preparation and supply of the certificates after deposit?

(c) Are sale certificates prepared and delivered strictly in the order in which applications are made?

(d) Copies of certificates sent to the registry office promptly?

(3) *Register of application for return of documents—*

(a) Applications for return complied with promptly and proper receipts taken?

(b) Documents returned strictly in the order in which applications are made?

(c) All applications entered whether rejected or granted?

(4) *Register of stamp duty and penalty—*

(a) Copies of impounded documents sent to the Collector promptly (Section 38, Stamp Act and Rule 421)?

(iii) Compare the clearance register with the register of A deposits received and state result (Rule 831 *et seq.*).

(iv) Is the receipt of daily advice list from the treasury insisted upon?

(v) Compare some treasury advice lists with the register of chalans and payments and state result.

31. Are attachments of amounts or prohibitory orders relating thereto duly noted in the deposit register?

32. (i) Examine the register of payment orders No. (A) 18 and register No (R) 38 and note whether there has been undue delay in passing and making over payment orders. (Rule 778)

(ii) Is there any case of undue preference to applicants of later date?

(iii) How many payment orders were returned from *Sadar* without counter-signature on the allegation of defect during the last six months? (Rule 780). If the number is too many, suggest remedy.

Do the cashier and the accountant sit in different rooms?

VI.—Nazir's and Cashier's accounts.

33. (a) (i) Are the following accounts duly maintained.—

Contingent register;

Contract contingent register?

(ii) Are the vouchers duly filed and cancelled?

(b) Establishment pay register.

(c) (i) Register of service postage stamps.

(ii) Do the entries correspond with the entries in the register of correspondence?

(d) (i) Permanent Advance Register.

(ii) Is the balance struck when contingent bills are drawn?

(iii) Is the permanent advance amount correct on verification of cash and vouchers?

34. (i) Is the cash book written up daily?

(ii) Are the heads of account properly classified?

(iii) Is the daily balance struck written in words as well as figures?

(iv) See that the balances are correctly brought forward to the next day's account.

(v) Is the cash in hand correct on verification with the entries in the register?

(vi) Does the Judge in charge verify the cash balance every day? (Rule 795).

35. (a) Is the cash balance sent to the treasury at the close of each day (Rules 753 and 797)?

(b) Is the cash balance at outlying stations reduced by regular remittance to the treasury? Is any difficulty felt in securing police escort when needed? Suggest remedies.

36. (a) Does the cash book show scrutiny by the accountant at the close of each day (Rule 776)?

(b) Compare several items in the treasury pass book with the cash book and state result

(c) Are remittances of Rs 500 and over signed by the Treasury Officer?

37. (a) Is the peremptory cash register properly maintained and correctly entered?

(e) (i) Are all the process servers given both short-beat and long beat work in order to equalise work?

(ii) Report if some peons are systematically employed in short-beat work.

(f) Does the Judge in charge preside over the distribution of processes from time to time? (Rule 106).

44. (a) Are processes issued from the nazarat without undue delay (rule 104)? And are they returned after service to the courts concerned within the prescribed time (rule 113)?

(b) Are the dates fixed for return sufficient? And are processes generally returned served within the dates fixed?

(c) Are cases of undue delay brought to the notice of the Judge in charge and dealt with by him? (Rule 100)

(d) Are many processes returned unserved on the allegation of want of time? Ascertain whether the Nazir or the peon was at fault and suggest remedies

(e) Do the reports of the peons contain the particulars required by the rules? If a process is affixed on a person's house, is it stated in the report what attempt was made to find him out?

(f) Note observance of the rule in Note 2 of rule 77. Are verifications of service obtained from *chaukulars* and *dafadars* as often as possible?

45 (a) Are processes marked "urgent" issued and served with the least possible delay?

(b) Report if there was any negligence or undue delay in effecting service of processes received from courts outside the jurisdiction of the court inspected? (Rule 101, Note 2).

(c) Were there any cases of serious misconduct or neglect of duty on the part of peons? And were the measures taken by the Judge in charge adequate?

(d) (i) Is a copy of the statement in (S) 28 submitted half-yearly to the District Judge?

(ii) In cases in which it has been found that processes have been suppressed, have any enquiries been made into the conduct of the peons?

46 (a) (i) What is the average number of processes executed during the last three working months by a process-server?

(ii) How does it compare with the standard fixed by the High Court?

(b) (i) Is the proportion of personal service of processes and of execution of warrants of arrest and attachment of movables satisfactory?

(ii) State percentages attained in the last three working months giving figures

(c) (i) What is the average number of days a process-server was out in the mufassal during the last three working months?

(ii) Is it capable of improvement?

(d) (i) Is a copy of the statement in (R) 18 submitted monthly to the District Judge and proper disciplinary action taken in the case of offending peons? (Rule 999)?

(ii) Is the statement prescribed by rule 1000 regularly prepared and submitted?

47 (a) Compare some items taken at random from the process register with the peons' diaries and state result.

(b) Is the diary submitted by the peons immediately on return to headquarters and is it regularly scrutinised by the Nazir? [Rule 100 (2) (iv) and Note 4 to Rule 115]

(c) Report on the general condition of the discipline among the peons and the efficiency of the administration and if the Judge in charge exercises proper supervision and control over the department

48 (a) Are the rules regarding grant of receipts by peons for money realised in execution of decrees strictly observed (Rule 202)?

(b) Examine some receipt books of the peons and compare them with entries in the cash book and state result

55. (a) Is typed copy of English documents invariably given?

(b) (i) Does each copyist write or type clearly and neatly?

(ii) Does any typewriter give blurred or indistinct impression?

(iii) Are proper ink and ribbon used?

(c) Are the copies free from error?

56. (a) Do the amount of the monthly bill of the copyists and half the total value of the folios of copies delivered or ready for delivery during the month agree (rule 677)? If not, what is the explanation?

(b) Are the columns in the register of copies showing folios supplied, used and returned unused totalled every month?

(c) Does the total number of folios supplied agree with those used and returned unused?

(d) (i) Are applications examined by the Sheristadar and a report laid before the Judge in charge at the close of each quarter?

(ii) Was any serious defect or irregularity found during such inspections?

57. (a) What is the average earnings for the previous four quarters of—

(i) a typist copyist;

(ii) an ordinary copyist?

(b) Are the earnings up the average laid down in Rule 666?

(c) If the earnings are below the average prescribed what steps should be taken to reduce the number of copyist and typists?

(d) What is the number of typists and copyists? Has any new appointment been made since the last inspection? If so state reason. (Rule 666.)

(e) Should the services of any copyist or typist be dispensed with on account of old age or unsatisfactory work [Rule 665 (5)]?

58. (a) Report if the Judge in charge exercises an adequate supervision and control over the establishment?

(b) Was carbon paper found in the possession of the typists?

(c) (i) How many applications for information were filed in each court during each quarter of the last year? What were the figures for the previous year?

(ii) Is the number considered small? Suggest reason.

(iii) Is there any reason to suppose that leakage of information or copy is going on?

IX.—Forms.

59. (a) Is the register of printed forms properly maintained? Are receipts and issues regularly entered and is the balance struck six-monthly and verified?

(b) Are the forms neatly arranged and issued with due regard to economy?

(c) Is there any stock of superseded forms or any surplus stock beyond the normal requirements of the office during the current supply year?

(d) (i) Are indents made with due regard to the actual stock and the probable consumption based on three years' average? (Rule 1029).

(ii) Was there any supplementary or emergent indent? If so, what was the reason?

(e) Is any form in use in manuscript although the same is available in print? If so, what is the explanation?

(f) Is there any form printed locally? If so, explain its need.

(g) Verify the stock of a few kinds of forms by reference to the balances shown in the stock book and state result.

X.—Stationery.

60. (a) Is the stationery register properly kept and are all receipts and issues regularly entered?

(b) Is the stationery neatly arranged and are issues made under the supervision of the Sheristadar with due regard to economy?

XIV.—Record room (outlying station).

64 (a) Are the Rules in Chapter 21 followed in arranging and dividing the Small Cause Court suit records into groups?

(b) Are the records neatly placed on the racks and well cared for?

(c) Is destruction of records carried out monthly? Are there any records the destruction of which is due?

XV.—Pending file and Outturn of work.

65. (1) (a) (i) State the number of cases pending in the files in title suits, money suits, rent suits, Small Cause Court suits, execution cases, appeals miscellaneous judicial cases, miscellaneous non-judicial cases, and give also the number pending on same date last year

(ii) To what causes do you attribute the increase or decrease of the pending file?

(iii) Give the disposals (contested and uncontested) of cases in these files during the last two years.

(b) (i) What is the number of suits and appeals more than one year old? Give separately the figures for 2 years old, 3 years old, etc.

(ii) Is the explanation satisfactory?

(c) What is the number of execution cases more than 6 months and 12 months old? Give the dates of two oldest cases.

(2) Remarks of the judicial officer concerned on the state of his file.

(3) Remarks of the District Judge on the state of the file.

66. Note the general outturn of work during the last two years. (In considering whether the outturn of work is sufficient the test suggested in rule 1111 of Chapter 43, Part IX, should be applied.)

67 (a) Have the thanas been distributed among the several courts at the station so as to secure an even amount of work?

(b) Is any redistribution necessary? If so, suggest what should be done.

(c) (i) Was there any transfer of cases to any additional court or from one court to another?

(ii) Were cases transferred according to the directions in rules 1086 and 1087?

XVI.—Miscellaneous.

68. (a) Was the last annual inspection of the presiding Judge thorough, practical and effective?

(b) Were the material defects and irregularities noted in the last inspection made by the presiding Judge remedied? If not, what is the explanation?

(c) Did the presiding Judge fail to detect errors or omissions in procedure which the District Judge detected and which the officer could, with reasonable care, have detected and rectified in advance? (Rule 1109)

(d) Is a defect register maintained (rule 1107)?

Has necessary action been taken with reference to all the material defects pointed out by the District Judge in previous inspections? If not, what is the explanation? Note any undue delay or omission in this respect

69 (a) Report any legitimate grievances of the judicial officers, the pleader, the ministerial officers, the process-serving peons and the litigant public that may have been brought to your notice and suggest remedies.

(b) Report on the general condition of the Court and its office, its popularity and the difficulty, if any, felt in its working

APPENDIX II.

FORM No. (M) 7-A.

Form of inspection of the district record rooms. (*See rule 1112.*)

- 1 When was the record room last inspected—
 - (a) by the District Judge?
 - (b) by an officer deputed by him for the purpose?
2. Who is the present Judge-in-charge and how long has he been in charge?
3. Who were the officers who successively held charge since the previous inspection by the District Judge? State the period during which each officer held charge.
4. What is the name of the record-keeper and how long has he held the appointment?
- 5 In the last three years how often has the record-keeper changed?
6. Does the Judge-in-charge inspect the record room from time to time?
- 7 Is a note-book kept in the record room in which all important orders are recorded?
- 8 Are inspection notes of the record room put in a guard file arranged chronologically and has prompt attention been paid to previous inspection notes and the defects noticed remedied? If not what is the explanation?
- 9 (a) Is a plan of the record room hung up in a conspicuous place?
 - (b) And does it (or does an index connected with the plan) show the number of rooms, racks and the shelves and the class and age of papers to be found on each?
 - (c) Is it prepared and corrected up-to-date? Are corrections made yearly after the periodical destruction of records?
- 10 (a) Is a statement hung up in the record room showing how to find where a particular document is deposited?
 - (b) Take a few records or documents and report whether they were quickly found out by following the instructions.
 - (c) Report after a practical test whether each clerk in the record room knows where to find a particular record
11. (a) Are work cards for each maintained and hung up showing particulars of work done? Are they up-to-date and are dates of assumption of charge of each clerk noted?
 - (b) Is the distribution of work fair? Suggest improvement, if any.
12. Does the record-keeper admit keeping or allowing to be kept any unauthorised registers? If so, should they be continued?
13. Is there any arrear in any branch of the work of the record room? If so, state the reason?
- 14 Are records carefully examined as they arrive batch by batch (Rule 518) and are they arranged and deposited on proper racks without undue delay?
15. Is there any excessive number of records recently received in the record room not examined and deposited in their proper places, in the racks.
- 16 Take the lists of the bundles of records received during the last six months and note—
 - (a) if they were received on due dates from all courts;
 - (b) were the different classes of records accompanied by lists in due forms?
 - (c) by what dates were the records of each month—
 - (i) examined?
 - (ii) deposited on racks?
17. Examine a number of records with a view to see whether—
 - (i) the rules relating to classification and arrangement have been carried out,
 - (ii) the contents of each file correspond with the table of contents,

(b) Take a number of consecutive entries in the register of return of documents and state result of examination.

(c) Take all the pending applications for return of documents and note if in each case there is an order of the Judge in charge?

28 Is the index sheet hung up in a conspicuous place at the end of each rack and is it up-to-date (rule 510)?

29 Are all the registers prescribed properly maintained by the record-keeper?

30. Is rule 520 followed and are the entries correctly made?

31. Are the progress report and the statement prescribed in rule 505 properly maintained and regularly submitted?

32 The accuracy of the progress reports should be tested by making a comparison with the information in the various registers to which these reports relate paying particular attention to all figures relating to work pending

33 (a) Is destruction of records carried out quarterly (Rule 561)? When was the last destruction due and when was it made?

(b) Are entries regarding the class of records destroyed made on the index board simultaneously with the destruction of records?

34 (a) Are notices issued and exhibits not taken back destroyed within the prescribed period? (Rules 559 and 560)

(b) Is the register relating to such exhibits properly maintained and dates of destruction regularly noted? (Rule 558).

(c) Are there bulky exhibits or other papers which are liable to destruction or should have been deposited upon the racks, lying on the floor? If so, what is the explanation? (Rule 558).

35 (a) Is the register of inspection of documents properly kept? Is inspection allowed under proper conditions?

(b) How many applications for inspection were filed during the last four quarters?

36 (a) Is the register of applications for information properly kept? Are information sheets delivered within the prescribed time with the required information?

(b) How many applications for information were filed during the last 4 quarters?

(c) Is there any reason to suppose that there is leakage of information?

37. Are A class records transferred to the record room at the close of each year with the flat index properly written up?

38. In addition to the daily supervision of the record room and staff, does the Judge-in-charge make a thorough inspection at least once a year?

39. What is your opinion of the work of the record-keeper? Is the work done intelligently and in a businesslike manner? Is the supervision sufficient?

40. Was any case of corrupt practice reported since the last inspection? If so, what action was taken?

41 Is the floor regularly kept clean?

42 Is proper precaution taken against ravages by rats, white ants, etc.?

43. Are the fire extinguishers in proper order and do the persons in charge know how to use them?

44 Is a copy of Government instructions in the case of fire kept in the guard file?

45 Who keeps the key of the record room? Is it easily available if there is an outbreak of fire?

46 How many buckets are kept and where? Are they easily and promptly accessible in the event of fire breaking out? Are the buckets kept full of water?

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